

AMENDED IN ASSEMBLY MAY 6, 2010

AMENDED IN ASSEMBLY MARCH 25, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2419

Introduced by Assembly Member Cook

February 19, 2010

An act to amend Sections 27, 101, 130, 144, 205, 7000, 7000.5, ~~7001~~, 7002, 7007, 7011, 7011.4, 7011.5, 7011.8, ~~7013~~, 7015, 7017.3, 7026.2, 7026.3, 7026.11, 7026.12, 7027.1, 7027.3, 7027.5, 7028.1, 7028.3, 7028.4, ~~7028.11~~, 7028.14, 7029.5, 7029.6, 7030, ~~7030.1~~, 7031, 7034, 7042.1, 7055, 7056, 7057, 7058, 7058.5, 7058.6, 7058.7, 7058.8, 7059, 7065.2, 7065.3, 7068.5, 7071.5, 7071.6, 7071.10, 7071.12, 7071.14, 7080.5, 7085.5, ~~7090.5~~, ~~7095~~, 7099.4, 7099.10, ~~7104~~, 7116, 7118.4, 7118.5, 7118.6, 7119, 7120, 7123.5, 7124.6, 7125, 7126, 7135, 7136, 7137.5, 7138, 7139.1, 7139.2, 7139.5, 7139.8, 7139.10, 7145, 7145.5, 7151, 7155, 7159, 8516, 16000, 16100, and 19164 of, and to amend and repeal Section 7000.6 of, the Business and Professions Code, to amend Section 3084 of the Civil Code, to amend Section 116.220 of the Code of Civil Procedure, to amend Section 17250.25 of the Education Code, to amend Sections 14137, 14661, 14661.1, 26509, 63047, and 70391.7 of the Government Code, to amend Sections 19825 and 25284.1 of the Health and Safety Code, to amend Sections 98.9, 3099, 3099.2, and 6652 of the Labor Code, to amend Sections 396 and 830.3 of the Penal Code, to amend Sections 6100, 6805, 10262, 10762, 20103.5, 20175.2, 20193, 20209.7, 20688.6, 20919.4, and 22010 of the Public Contract Code, to amend Section 327 of the Public Utilities Code, to amend Section 143 of the Streets and Highways Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2419, as amended, Cook. Contractors.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board.

This bill would rename that law the Contractors State License Law and would rename the board the Contractors State License Board. The bill would rename specified classifications of contractors, and would make other technical, nonsubstantive, and conforming changes to related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27 of the Business and Professions Code
2 is amended to read:
3 27. (a) Each entity specified in subdivision (b) shall provide
4 on the Internet information regarding the status of every license
5 issued by that entity in accordance with the California Public
6 Records Act (Chapter 3.5 (commencing with Section 6250) of
7 Division 7 of Title 1 of the Government Code) and the Information
8 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
9 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public
10 information to be provided on the Internet shall include information
11 on suspensions and revocations of licenses issued by the entity
12 and other related enforcement action taken by the entity relative
13 to persons, businesses, or facilities subject to licensure or regulation
14 by the entity. In providing information on the Internet, each entity
15 shall comply with the Department of Consumer Affairs Guidelines
16 for Access to Public Records. The information may not include
17 personal information, including home telephone number, date of
18 birth, or social security number. Each entity shall disclose a
19 licensee's address of record. However, each entity shall allow a
20 licensee to provide a post office box number or other alternate
21 address, instead of his or her home address, as the address of
22 record. This section shall not preclude an entity from also requiring
23 a licensee, who has provided a post office box number or other
24 alternative mailing address as his or her address of record, to

1 provide a physical business address or residence address only for
2 the entity's internal administrative use and not for disclosure as
3 the licensee's address of record or disclosure on the Internet.

4 (b) Each of the following entities within the Department of
5 Consumer Affairs shall comply with the requirements of this
6 section:

7 (1) The Acupuncture Board shall disclose information on its
8 licensees.

9 (2) The Board of Behavioral Sciences shall disclose information
10 on its licensees, including marriage and family therapists, licensed
11 clinical social workers, and licensed educational psychologists.

12 (3) The Dental Board of California shall disclose information
13 on its licensees.

14 (4) The State Board of Optometry shall disclose information
15 regarding certificates of registration to practice optometry,
16 statements of licensure, optometric corporation registrations, branch
17 office licenses, and fictitious name permits of its licensees.

18 (5) The Board for Professional Engineers and Land Surveyors
19 shall disclose information on its registrants and licensees.

20 (6) The Structural Pest Control Board shall disclose information
21 on its licensees, including applicators, field representatives, and
22 operators in the areas of fumigation, general pest and wood
23 destroying pests and organisms, and wood roof cleaning and
24 treatment.

25 (7) The Bureau of Automotive Repair shall disclose information
26 on its licensees, including auto repair dealers, smog stations, lamp
27 and brake stations, smog check technicians, and smog inspection
28 certification stations.

29 (8) The Bureau of Electronic and Appliance Repair shall disclose
30 information on its licensees, including major appliance repair
31 dealers, combination dealers (electronic and appliance), electronic
32 repair dealers, service contract sellers, and service contract
33 administrators.

34 (9) The Cemetery and Funeral Bureau shall disclose information
35 on its licensees, including cemetery brokers, cemetery salespersons,
36 cemetery managers, crematory managers, cemetery authorities,
37 crematories, cremated remains disposers, embalmers, funeral
38 establishments, and funeral directors.

39 (10) The Professional Fiduciaries Bureau shall disclose
40 information on its licensees.

(11) The Contractors State License Board shall disclose information on its licensees in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(12) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(13) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(c) “Internet” for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

SEC. 2. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.

- 1 (u) The Landscape Architects Technical Committee.
- 2 (v) The Division of Investigation.
- 3 (w) The Bureau of Automotive Repair.
- 4 (x) The Respiratory Care Board of California.
- 5 (y) The Acupuncture Board.
- 6 (z) The Board of Psychology.
- 7 (aa) The California Board of Podiatric Medicine.
- 8 (ab) The Physical Therapy Board of California.
- 9 (ac) The Arbitration Review Program.
- 10 (ad) The Physician Assistant Committee.
- 11 (ae) The Speech-Language Pathology and Audiology Board.
- 12 (af) The California Board of Occupational Therapy.
- 13 (ag) The Osteopathic Medical Board of California.
- 14 (ah) The Naturopathic Medicine Committee.
- 15 (ai) The Dental Hygiene Committee of California.
- 16 (aj) The Professional Fiduciaries Bureau.
- 17 (ak) Any other boards, offices, or officers subject to its
- 18 jurisdiction by law.

19 SEC. 3. Section 130 of the Business and Professions Code is
20 amended to read:

21 130. (a) Notwithstanding any other provision of law, the term
22 of office of any member of an agency designated in subdivision
23 (b) shall be for a term of four years expiring on June 1.

24 (b) Subdivision (a) applies to the following boards or
25 committees:

- 26 (1) The Medical Board of California.
- 27 (2) The California Board of Podiatric Medicine.
- 28 (3) The Physical Therapy Board of California.
- 29 (4) The Board of Registered Nursing.
- 30 (5) The Board of Vocational Nursing and Psychiatric
- 31 Technicians.
- 32 (6) The State Board of Optometry.
- 33 (7) The California State Board of Pharmacy.
- 34 (8) The Veterinary Medical Board.
- 35 (9) The California Architects Board.
- 36 (10) The Landscape Architect Technical Committee.
- 37 (11) The Board for Professional Engineers and Land Surveyors.
- 38 (12) The Contractors State License Board.
- 39 (13) The State Board of Guide Dogs for the Blind.
- 40 (14) The Board of Behavioral Sciences.

- 1 (15) The Court Reporters Board of California.
- 2 (16) The State Athletic Commission.
- 3 (17) The Osteopathic Medical Board of California.
- 4 (18) The Respiratory Care Board of California.
- 5 (19) The Acupuncture Board.
- 6 (20) The Board of Psychology.

7 SEC. 4. Section 144 of the Business and Professions Code is
8 amended to read:

9 144. (a) Notwithstanding any other provision of law, an agency
10 designated in subdivision (b) shall require an applicant to furnish
11 to the agency a full set of fingerprints for purposes of conducting
12 criminal history record checks. Any agency designated in
13 subdivision (b) may obtain and receive, at its discretion, criminal
14 history information from the Department of Justice and the United
15 States Federal Bureau of Investigation.

16 (b) Subdivision (a) applies to the following:

- 17 (1) California Board of Accountancy.
- 18 (2) State Athletic Commission.
- 19 (3) Board of Behavioral Sciences.
- 20 (4) Court Reporters Board of California.
- 21 (5) State Board of Guide Dogs for the Blind.
- 22 (6) California State Board of Pharmacy.
- 23 (7) Board of Registered Nursing.
- 24 (8) Veterinary Medical Board.
- 25 (9) Registered Veterinary Technician Committee.
- 26 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 27 (11) Respiratory Care Board of California.
- 28 (12) Hearing Aid Dispensers Advisory Commission.
- 29 (13) Physical Therapy Board of California.
- 30 (14) Physician Assistant Committee of the Medical Board of
31 California.
- 32 (15) Speech-Language Pathology and Audiology Board.
- 33 (16) Medical Board of California.
- 34 (17) State Board of Optometry.
- 35 (18) Acupuncture Board.
- 36 (19) Cemetery and Funeral Bureau.
- 37 (20) Bureau of Security and Investigative Services.
- 38 (21) Division of Investigation.
- 39 (22) Board of Psychology.
- 40 (23) The California Board of Occupational Therapy.

- 1 (24) Structural Pest Control Board.
- 2 (25) Contractors State License Board.
- 3 (26) Bureau of Naturopathic Medicine.
- 4 (27) The Professional Fiduciaries Bureau.

5 (c) The provisions of paragraph (24) of subdivision (b) shall
6 become operative on July 1, 2004. The provisions of paragraph
7 (25) of subdivision (b) shall become operative on the date on which
8 sufficient funds are available for the Contractors State License
9 Board and the Department of Justice to conduct a criminal history
10 record check pursuant to this section or on July 1, 2005, whichever
11 occurs first.

12 SEC. 5. Section 205 of the Business and Professions Code is
13 amended to read:

14 205. (a) There is in the State Treasury the Professions and
15 Vocations Fund. The fund shall consist of the following special
16 funds:

- 17 (1) Accountancy Fund.
- 18 (2) California Architects Board Fund.
- 19 (3) Athletic Commission Fund.
- 20 (4) Barbering and Cosmetology Contingent Fund.
- 21 (5) Cemetery Fund.
- 22 (6) Contractors License Fund.
- 23 (7) State Dentistry Fund.
- 24 (8) State Funeral Directors and Embalmers Fund.
- 25 (9) Guide Dogs for the Blind Fund.
- 26 (10) Home Furnishings and Thermal Insulation Fund.
- 27 (11) California Architects Board-Landscape Architects Fund.
- 28 (12) Contingent Fund of the Medical Board of California.
- 29 (13) Optometry Fund.
- 30 (14) Pharmacy Board Contingent Fund.
- 31 (15) Physical Therapy Fund.
- 32 (16) Private Investigator Fund.
- 33 (17) Professional Engineers' and Land Surveyors' Fund.
- 34 (18) Consumer Affairs Fund.
- 35 (19) Behavioral Sciences Fund.
- 36 (20) Licensed Midwifery Fund.
- 37 (21) Court Reporters' Fund.
- 38 (22) Veterinary Medical Board Contingent Fund.
- 39 (23) Vocational Nurses Account of the Vocational Nursing and
40 Psychiatric Technicians Fund.

- 1 (24) Electronic and Appliance Repair Fund.
- 2 (25) Geology and Geophysics Fund.
- 3 (26) Dispensing Opticians Fund.
- 4 (27) Acupuncture Fund.
- 5 (28) Physician Assistant Fund.
- 6 (29) Board of Podiatric Medicine Fund.
- 7 (30) Psychology Fund.
- 8 (31) Respiratory Care Fund.
- 9 (32) Speech-Language Pathology and Audiology Fund.
- 10 (33) Board of Registered Nursing Fund.
- 11 (34) Psychiatric Technician Examiners Account of the
- 12 Vocational Nursing and Psychiatric Technicians Fund.
- 13 (35) Animal Health Technician Examining Committee Fund.
- 14 (36) State Dental Hygiene Fund.
- 15 (37) State Dental Assistant Fund.
- 16 (38) Hearing Aid Dispensers Account of the Speech-Language
- 17 Pathology and Audiology Fund.
- 18 (b) For accounting and recordkeeping purposes, the Professions
- 19 and Vocations Fund shall be deemed to be a single special fund,
- 20 and each of the several special funds therein shall constitute and
- 21 be deemed to be a separate account in the Professions and
- 22 Vocations Fund. Each account or fund shall be available for
- 23 expenditure only for the purposes as are now or may hereafter be
- 24 provided by law.
- 25 SEC. 6. Section 7000 of the Business and Professions Code is
- 26 amended to read:
- 27 7000. This chapter constitutes, and may be cited as, the
- 28 Contractors State License Law.
- 29 SEC. 7. Section 7000.5 of the Business and Professions Code
- 30 is amended to read:
- 31 7000.5. (a) There is in the Department of Consumer Affairs
- 32 a Contractors State License Board, which consists of 15 members.
- 33 As used in this chapter, the term “board” means the Contractors
- 34 State License Board.
- 35 (b) The repeal of this section renders the board subject to the
- 36 review required by Division 1.2 (commencing with Section 473).
- 37 However, the review of this board by the department shall be
- 38 limited to only those unresolved issues identified by the Joint
- 39 Committee on Boards, Commissions, and Consumer Protection.

1 (c) This section shall remain in effect only until January 1, 2011,
2 and, as of that date, is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2011, deletes or extends that date.

4 The repeal of this section renders the board subject to the review
5 required by Division 1.2 (commencing with Section 473).

6 SEC. 8. Section 7000.6 of the Business and Professions Code,
7 as added by Section 3 of Chapter 744 of the Statutes of 2002, is
8 amended to read:

9 7000.6. Protection of the public shall be the highest priority
10 for the Contractors State License Board in exercising its licensing,
11 regulatory, and disciplinary functions. Whenever the protection
12 of the public is inconsistent with other interests sought to be
13 promoted, the protection of the public shall be paramount.

14 SEC. 9. Section 7000.6 of the Business and Professions Code,
15 as added by Section 27 of Chapter 107 of the Statutes of 2002, is
16 repealed.

17 ~~SEC. 10. Section 7001 of the Business and Professions Code~~
18 ~~is amended to read:~~

19 ~~7001. All members of the board, except the public members,~~
20 ~~shall be contractors actively engaged in the contracting business;~~
21 ~~have been so engaged for a period of not less than five years~~
22 ~~preceeding the date of their appointment, and shall so continue in~~
23 ~~the contracting business during the term of their office. No one,~~
24 ~~except a public member, shall be eligible for appointment who~~
25 ~~does not at the time hold an unexpired license to operate as a~~
26 ~~contractor.~~

27 ~~The public members shall not be licentiates of the board.~~

28 ~~SEC. 11.~~

29 SEC. 10. Section 7002 of the Business and Professions Code
30 is amended to read:

31 7002. (a) One member of the board shall be a General
32 Engineering ("A") contractor, two members shall be General
33 Building ("B") contractors, two members shall be Specialty ("C")
34 contractors, one member shall be a member of a labor organization
35 representing the building trades, one member shall be an active
36 local building official, and eight members shall be public members,
37 one of whom shall be from a statewide senior citizen organization.

38 (b) No public member shall be a current or former licensee of
39 the board or a close family member of a licensee or be currently
40 or formerly connected with the construction industry or have any

1 financial interest in the business of a licensee of the board. Each
2 public member shall meet all of the requirements for public
3 membership on a board as set forth in Chapter 6 (commencing
4 with Section 450) of Division 1. Notwithstanding the provisions
5 of this subdivision and those of Section 450, a representative of a
6 labor organization shall be eligible for appointment to serve as a
7 public member of the board.

8 (c) Each contractor member of the board shall be of recognized
9 standing in his or her branch of the contracting business and hold
10 an unexpired license to operate as a contractor. In addition, each
11 contractor member shall, as of the date of his or her appointment,
12 be actively engaged in the contracting business and have been so
13 engaged for a period of not less than five years. Each contractor
14 member shall remain actively engaged in the contracting business
15 during the entire term of his or her membership on the board.

16 (d) Each member of the board shall be at least 30 years of age
17 and of good character. In addition, each member shall have been
18 a citizen and resident of the State of California for at least five
19 years next preceding his or her appointment.

20 (e) For the purposes of construing this article, the terms “General
21 Engineering (“A”) contractor,” “General Building (“B”) contractor,”
22 and “Specialty (“C”) contractor” shall have the
23 meanings given in Article 4 (commencing with Section 7055) of
24 this chapter.

25 ~~SEC. 12.~~

26 *SEC. 11.* Section 7007 of the Business and Professions Code
27 is amended to read:

28 7007. Eight members constitute a quorum at a board meeting.

29 Due notice of each meeting and the time and place thereof shall
30 be given to each member, as provided in the bylaws.

31 ~~SEC. 13.~~

32 *SEC. 12.* Section 7011 of the Business and Professions Code
33 is amended to read:

34 7011. The board, by and with the approval of the director, shall
35 appoint a Registrar of Contractors and fix his or her compensation.

36 The registrar shall be the executive officer and secretary of the
37 board and shall carry out all of the administrative duties as provided
38 in this chapter and as delegated to him or her by the board.

39 For the purpose of administration of this chapter, there may be
40 appointed a deputy registrar, a chief reviewing and hearing officer,

1 and, subject to Section 159.5, other assistants and subordinates as
2 may be necessary.

3 Appointments shall be made in accordance with the provisions
4 of civil service laws.

5 This section shall remain in effect only until January 1, 2011,
6 and, as of that date, is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2011, deletes or extends that date.

8 ~~SEC. 14.~~

9 *SEC. 13.* Section 7011.4 of the Business and Professions Code
10 is amended to read:

11 7011.4. (a) Notwithstanding Section 7011, there is in the
12 Contractors State License Board, a separate enforcement unit that
13 shall rigorously enforce this chapter prohibiting all forms of
14 unlicensed activity.

15 (b) Persons employed as enforcement representatives in this
16 unit and designated by the director are not peace officers and are
17 not entitled to safety member retirement benefits. They do not
18 have the power of arrest. However, they may issue a written notice
19 to appear in court pursuant to Chapter 5c (commencing with
20 Section 853.5) of Title 3 of Part 2 of the Penal Code.

21 ~~SEC. 15.~~

22 *SEC. 14.* Section 7011.5 of the Business and Professions Code
23 is amended to read:

24 7011.5. Persons employed as investigators of the Special
25 Investigations Unit of the Contractors State License Board and
26 designated by the director have the authority of peace officers
27 while engaged in exercising the powers granted or performing the
28 duties imposed upon them in investigating the laws administered
29 by the board or commencing directly or indirectly any criminal
30 prosecution arising from any investigation conducted under these
31 laws. All persons herein referred to shall be deemed to be acting
32 within the scope of employment with respect to all acts and matters
33 in this section set forth.

34 ~~SEC. 16.~~

35 *SEC. 15.* Section 7011.8 of the Business and Professions Code
36 is amended to read:

37 7011.8. (a) Any person who reports to, or causes a complaint
38 to be filed with, the Contractors State License Board that a person
39 licensed by that entity has engaged in professional misconduct,
40 knowing the report or complaint to be false, is guilty of an

1 infraction punishable by a fine not to exceed one thousand dollars
2 (\$1,000).

3 (b) The board may notify the appropriate district attorney or
4 city attorney that a person has made or filed what the entity believes
5 to be a false report or complaint against a licensee.

6 ~~SEC. 17. Section 7013 of the Business and Professions Code~~
7 ~~is amended to read:~~

8 ~~7013. The board may, in its discretion, review and sustain or~~
9 ~~reverse by a majority vote any action or decision of the registrar.~~

10 ~~This section shall apply to any action, decision, order, or~~
11 ~~proceeding of the registrar conducted in accordance with the~~
12 ~~provisions of Chapter 5 (commencing with Section 11500) of Part~~
13 ~~4 of Division 3 of Title 2 of the Government Code.~~

14 ~~SEC. 18:~~

15 ~~SEC. 16. Section 7015 of the Business and Professions Code~~
16 ~~is amended to read:~~

17 ~~7015. The board shall adopt a seal for its own use. The seal~~
18 ~~shall have the words "Contractors State License Board, State of~~
19 ~~California, Department of Consumer Affairs," and the care and~~
20 ~~custody thereof shall be in the hands of the registrar.~~

21 ~~SEC. 19:~~

22 ~~SEC. 17. Section 7017.3 of the Business and Professions Code~~
23 ~~is amended to read:~~

24 ~~7017.3. The Contractors State License Board shall report~~
25 ~~annually to the Legislature, not later than October 1 of each year,~~
26 ~~the following statistical information for the prior fiscal year. The~~
27 ~~following data shall be reported on complaints filed with the board~~
28 ~~against licensed contractors, registered home improvement~~
29 ~~salespersons, and unlicensed persons acting as licensees or~~
30 ~~registrants:~~

31 (a) The number of complaints received by the board categorized
32 by source, such as public, trade, profession, government agency,
33 or board-initiated, and by type of complaint, such as licensee or
34 nonlicensee.

35 (b) The number of complaints closed prior to referral for field
36 investigation, categorized by the reason for the closure, such as
37 settled, referred for mandatory arbitration, or referred for voluntary
38 arbitration.

1 (c) The number of complaints referred for field investigation
2 categorized by the type of complaint, such as licensee or
3 nonlicensee.

4 (d) The number of complaints closed after referral for field
5 investigation categorized by the reason for the closure, such as
6 settled, referred for mandatory arbitration, or referred for voluntary
7 arbitration.

8 (e) For the board's Intake/Mediation Center and the board's
9 Investigation Center closures, respectively, the total number of
10 complaints closed prior to a field investigation per consumer
11 services representative, and the total number of complaints closed
12 after referral for a field investigation per enforcement
13 representative. Additionally, the board shall report the total number
14 of complaints closed by other board staff during the year.

15 (f) The number of complaints pending at the end of the fiscal
16 year grouped in 90-day increments, and the percentage of total
17 complaints pending, represented by the number of complaints in
18 each grouping.

19 (g) The number of citations issued to licensees, categorized by
20 the type of citation, such as order of correction only or order of
21 correction and fine, and the number of citations issued to licensees
22 that were vacated or withdrawn.

23 (h) The number of citations issued to nonlicensees and the
24 number of these citations that were vacated or withdrawn.

25 (i) The number of complaints referred to a local prosecutor for
26 criminal investigation or prosecution, the number of complaints
27 referred to the Attorney General for the filing of an accusation,
28 and the number of complaints referred to both a local prosecutor
29 and the Attorney General, categorized by type of complaint, such
30 as licensee and nonlicensee.

31 (j) Actions taken by the board, including, but not limited to, the
32 following:

33 (1) The number of disciplinary actions categorized by type, such
34 as revocations or suspensions, categorized by whether the
35 disciplinary action resulted from an accusation, failure to comply
36 with a citation, or failure to comply with an arbitration award.

37 (2) The number of accusations dismissed or withdrawn.

38 (k) For subdivisions (g) and (j), the number of cases containing
39 violations of Sections 7121 and 7121.5, and paragraph (5) of
40 subdivision (a) of Section 7159.5, categorized by section.

1 (l) The number of interim suspension orders sought, the number
2 of interim suspension orders granted, the number of temporary
3 restraining orders sought, and the number of temporary restraining
4 orders granted.

5 (m) The amount of cost recovery ordered and the amount
6 collected.

7 (n) Case aging data, including data for each major stage of the
8 enforcement process, including the following:

9 (1) The average number of days from the filing of a complaint
10 to its closure by the board's Intake/Mediation Center prior to the
11 referral for an investigation categorized by the type of complaint,
12 such as licensee or nonlicensee.

13 (2) The average number of days from the referral of a complaint
14 for an investigation to its closure by the Investigation Center
15 categorized by the type of complaint, such as licensee or
16 nonlicensee.

17 (3) The average number of days from the filing of a complaint
18 to the referral of the completed investigation to the Attorney
19 General.

20 (4) The average number of days from the referral of a completed
21 investigation to the Attorney General to the filing of an accusation
22 by the Attorney General.

23 (5) The average number of days from the filing of an accusation
24 to the first hearing date or date of a stipulated settlement.

25 (6) The average number of days from the receipt of the
26 Administrative Law Judge's proposed decision to the registrar's
27 final decision.

28 ~~SEC. 20.~~

29 *SEC. 18.* Section 7026.2 of the Business and Professions Code
30 is amended to read:

31 7026.2. (a) For the purposes of this chapter, "contractor"
32 includes any person engaged in the business of the construction,
33 installation, alteration, repair, or preparation for moving of a
34 mobilehome or mobilehome accessory buildings and structures
35 upon a site for the purpose of occupancy as a dwelling.

36 (b) "Contractor" does not include the manufacturer of the
37 mobilehome or mobilehome accessory building or structure if it
38 is constructed at a place other than the site upon which it is installed
39 for the purpose of occupancy as a dwelling, and does not include
40 the manufacturer when the manufacturer is solely performing work

in compliance with the manufacturer's warranty. "Contractor" includes the manufacturer, if the manufacturer is engaged in onsite construction, alteration, or repair of a mobilehome or mobilehome accessory buildings and structures pursuant to specialized plans, specifications, or models, or any work other than in compliance with the manufacturer's warranty.

(c) "Contractor" does not include a seller of a manufactured home or mobilehome who holds a retail manufactured home or mobilehome dealer's license under Chapter 7 (commencing with Section 18045) of Part 2 of Division 13 of the Health and Safety Code, if the installation of the manufactured home or mobilehome is to be performed by a licensed contractor and the seller certifies that fact in writing to the buyer prior to the performance of the installation. The certification shall include the name, business address, and contractor license number of the licensed contractor by whom the installation will be performed.

(d) For the purposes of this chapter, the following terms have the following meanings:

(1) "Mobilehome" means a vehicle defined in Section 18008 of the Health and Safety Code.

(2) "Mobilehome accessory building or structure" means a building or structure defined in Section 18008.5 of the Health and Safety Code.

(3) "Manufactured home" means a structure defined in Section 18007 of the Health and Safety Code.

~~SEC. 21:~~

SEC. 19. Section 7026.3 of the Business and Professions Code is amended to read:

7026.3. For the purpose of this chapter, "contractor" includes any person who installs or contracts for the installation of carpet wherein the carpet is attached to the structure by any conventional method as determined by custom and usage in the trade; except that a seller of installed carpet who holds a retail furniture dealer's license under Chapter 3 (commencing with Section 19000) of Division 8 shall not be required to have a contractor license if the installation of the carpet is performed by a licensed contractor and the seller so certifies in writing to the buyer prior to the performance of the installation, which certification shall include the name, business address, and contractor license number of the licensed contractor by whom the installation will be performed.

1 ~~SEC. 22.~~

2 ~~SEC. 20.~~ Section 7026.11 of the Business and Professions Code
3 is amended to read:

4 7026.11. Notwithstanding any other provision of law, the
5 permissible scope of work for the General Manufactured Housing
6 (C-47) license classification set forth in Section 832.47 of Division
7 8 of Title 16 of the California Code of Regulations shall include
8 manufactured homes, as defined in Section 18007 of the Health
9 and Safety Code, mobilehomes, as defined in Section 18008 of
10 the Health and Safety Code, and multifamily manufactured homes,
11 as defined in Section 18008.7 of the Health and Safety Code.

12 ~~SEC. 23.~~

13 ~~SEC. 21.~~ Section 7026.12 of the Business and Professions Code
14 is amended to read:

15 7026.12. The installation of a fire protection system, excluding
16 an electrical alarm system, shall be performed only by a contractor
17 holding a Fire Protection (C-16) classification as defined in the
18 regulations of the board or by an owner-builder of an
19 owner-occupied, single-family dwelling, if not more than two
20 single-family dwellings on the same parcel are constructed within
21 one year, plans are submitted to and approved by the city, county,
22 or city and county authority, and the city, county, or city and county
23 authority inspects and approves the installation.

24 ~~SEC. 24.~~

25 ~~SEC. 22.~~ Section 7027.1 of the Business and Professions Code
26 is amended to read:

27 7027.1. (a) It is a misdemeanor for any person to advertise for
28 construction or work of improvement covered by this chapter
29 unless that person holds a valid license under this chapter in the
30 classification so advertised, except that a licensed General
31 Engineering (“A”) or General Building (“B”) contractor may
32 advertise as a general contractor.

33 (b) “Advertise,” as used in this section, includes, but not by way
34 of limitation, the issuance of any card, sign, or device to any
35 person, the causing, permitting, or allowing of any sign or marking
36 on or in any building or structure, or in any newspaper, magazine,
37 or by airwave or any electronic transmission, or in any directory
38 under a listing for construction or work of improvement covered
39 by this chapter, with or without any limiting qualifications.

1 (c) A violation of this section is punishable by a fine of not less
2 than seven hundred dollars (\$700) and not more than one thousand
3 dollars (\$1,000), which fine shall be in addition to any other
4 punishment imposed for a violation of this section.

5 (d) If, upon investigation, the registrar has probable cause to
6 believe that an unlicensed individual is in violation of this section,
7 the registrar may issue a citation pursuant to Section 7028.7 or
8 7099.10.

9 ~~SEC. 25.~~

10 *SEC. 23.* Section 7027.3 of the Business and Professions Code
11 is amended to read:

12 7027.3. Any person, licensed or unlicensed, who willfully and
13 intentionally uses, with intent to defraud, a contractor license
14 number that does not correspond to the number on a currently valid
15 contractor license held by that person, is punishable by a fine not
16 exceeding ten thousand dollars (\$10,000), or by imprisonment in
17 state prison, or in county jail for not more than one year, or by
18 both that fine and imprisonment. The penalty provided by this
19 section is cumulative to the penalties available under all other laws
20 of this state. If, upon investigation, the registrar has probable cause
21 to believe that an unlicensed individual is in violation of this
22 section, the registrar may issue a citation pursuant to Section
23 7028.7.

24 ~~SEC. 26.~~

25 *SEC. 24.* Section 7027.5 of the Business and Professions Code
26 is amended to read:

27 7027.5. (a) A landscape contractor working within the
28 classification for which the license is issued may design systems
29 or facilities for work to be performed and supervised by that
30 contractor.

31 (b) Notwithstanding any other provision of this chapter, a
32 landscape contractor working within the classification for which
33 the license is issued may enter into a prime contract for the
34 construction of any of the following:

35 (1) A swimming pool, spa, or hot tub, provided that the
36 improvements are included within the landscape project that the
37 landscape contractor is supervising and the construction of any
38 swimming pool, spa, or hot tub is subcontracted to a single licensed
39 contractor holding a Swimming Pool (C-53) classification, as set
40 forth in Section 832.53 of Title 16 of the California Code of

1 Regulations, or performed by the landscape contractor if the
2 landscape contractor also holds a Swimming Pool (C-53)
3 classification. The contractor constructing the swimming pool,
4 spa, or hot tub may subcontract with other appropriately licensed
5 contractors for the completion of individual components of the
6 construction.

7 (2) An outdoor cooking center, provided that the improvements
8 are included within a residential landscape project that the
9 contractor is supervising. For purposes of this subdivision, “outdoor
10 cooking center” means an unenclosed area within a landscape that
11 is used for the cooking or preparation of food or beverages.

12 (3) An outdoor fireplace, provided that it is included within a
13 residential landscape project that the contractor is supervising and
14 is not attached to a dwelling.

15 (c) Work performed in connection with a residential landscape
16 project specified in paragraph (2) or (3) of subdivision (b) that is
17 outside of the field and scope of activities authorized to be
18 performed under the Landscape Contractor (C-27) classification,
19 as set forth in Section 832.27 of Title 16 of the California Code
20 of Regulations, may only be performed by a landscape contractor
21 if the landscape contractor also either holds an appropriate specialty
22 license classification to perform the work or is licensed as a General
23 Building contractor. If the landscape contractor neither holds an
24 appropriate specialty license classification to perform the work
25 nor is licensed as a General Building contractor, the work shall be
26 performed by a Specialty contractor holding the appropriate license
27 classification or by a General Building contractor performing work
28 in accordance with the requirements of subdivision (b) of Section
29 7057.

30 (d) A violation of this section shall be cause for disciplinary
31 action.

32 ~~SEC. 27.~~

33 *SEC. 25.* Section 7028.1 of the Business and Professions Code
34 is amended to read:

35 7028.1. It is a misdemeanor for any contractor, whether licensed
36 or unlicensed, to perform or engage in asbestos-related work, as
37 defined in Section 6501.8 of the Labor Code, without certification
38 pursuant to Section 7058.5 of this code, or to perform or engage
39 in a removal or remedial action, as defined in subdivision (d) of
40 Section 7058.7, or, unless otherwise exempted by this chapter, to

1 bid for the installation or removal of, or to install or remove, an
2 underground storage tank, without certification pursuant to Section
3 7058.7. A contractor in violation of this section is subject to one
4 of the following penalties:

5 (a) Conviction of a first offense is punishable by a fine of not
6 less than one thousand dollars (\$1,000) or more than three thousand
7 dollars (\$3,000), and by possible revocation or suspension of any
8 contractor license.

9 (b) Conviction of a subsequent offense requires a fine of not
10 less than three thousand dollars (\$3,000) or more than five thousand
11 dollars (\$5,000), or imprisonment in the county jail not exceeding
12 one year, or both the fine and imprisonment, and a mandatory
13 action to suspend or revoke any contractor license.

14 ~~SEC. 28.~~

15 *SEC. 26.* Section 7028.3 of the Business and Professions Code
16 is amended to read:

17 7028.3. In addition to all other remedies, when it appears to
18 the registrar, either upon complaint or otherwise, that a licensee
19 has engaged in, or is engaging in, any act, practice, or transaction
20 that constitutes a violation of this chapter whereby another person
21 may be substantially injured, or that any person, who does not hold
22 a state contractor license in any classification, has engaged in, or
23 is engaging in, any act, practice, or transaction that constitutes a
24 violation of this chapter, whether or not there is substantial injury,
25 the registrar may, either through the Attorney General or through
26 the district attorney of the county in which the act, practice, or
27 transaction is alleged to have been committed, apply to the superior
28 court of that county or any other county in which such person
29 maintains a place of business or resides, for an injunction
30 restraining such person from acting in the capacity of a contractor
31 without a license in violation of this chapter, or from acting in
32 violation of this chapter when another person may be substantially
33 injured, and, upon a proper showing, a temporary restraining order,
34 a preliminary injunction, or a permanent injunction shall be
35 granted.

36 ~~SEC. 29.~~

37 *SEC. 27.* Section 7028.4 of the Business and Professions Code
38 is amended to read:

39 7028.4. In addition to the remedies set forth in Section 7028.3,
40 on proper showing by (1) a licensed contractor, or an association

1 of contractors, (2) a consumer affected by the violation, (3) a
2 district attorney, or (4) the Attorney General, of a continuing
3 violation of this chapter by a person who does not hold a state
4 contractor license in any classification, an injunction shall issue
5 by a court specified in Section 7028.3 at the request of any such
6 party, prohibiting such violation. The plaintiff in any such action
7 shall not be required to prove irreparable injury.

8 ~~SEC. 30. Section 7028.11 of the Business and Professions~~
9 ~~Code is amended to read:~~

10 ~~7028.11. If, within 15 working days after service of the citation,~~
11 ~~the person cited fails to notify the registrar that he or she intends~~
12 ~~to appeal the citation, the citation shall be deemed a final order of~~
13 ~~the registrar and shall not subject to review by any court or agency.~~
14 ~~The 15-day period may be extended by the registrar for good cause.~~

15 ~~SEC. 31.~~

16 *SEC. 28.* Section 7028.14 of the Business and Professions Code
17 is amended to read:

18 7028.14. Notwithstanding any other provision of the law, the
19 registrar may waive part of the civil penalty if the person against
20 whom the civil penalty is assessed satisfactorily completes all the
21 requirements for, and is issued, a contractor license. Any
22 outstanding injury to the public shall be satisfactorily settled prior
23 to issuance of the license.

24 ~~SEC. 32.~~

25 *SEC. 29.* Section 7029.5 of the Business and Professions Code
26 is amended to read:

27 7029.5. Every Plumbing (C-36) contractor, Electrical Sign
28 (C-45) contractor, and Well-Drilling (C-57) contractor licensed
29 under this chapter shall have displayed on each side of each motor
30 vehicle used in his or her business, for which a commercial vehicle
31 registration fee has been paid pursuant to Article 3 (commencing
32 with Section 9400) of Chapter 6 of Division 3 of the Vehicle Code,
33 his or her name, permanent business address, and contractor license
34 number, all in letters and numerals not less than 1 ½ inches high.

35 The identification requirements of this section shall also apply
36 to any drill rig used for the drilling of water wells.

37 Failure to comply with this section constitutes a cause for
38 disciplinary action.

1 ~~SEC. 33.~~

2 *SEC. 30.* Section 7029.6 of the Business and Professions Code
3 is amended to read:

4 7029.6. Except for contractors identified in Section 7029.5,
5 every contractor licensed under this chapter shall have displayed,
6 in or on each motor vehicle used in his or her construction business,
7 for which a commercial vehicle registration fee has been paid
8 pursuant to Article 3 (commencing with Section 9400) of Chapter
9 6 of Division 3 of the Vehicle Code, his or her business name and
10 contractor license number in a clearly visible location in print type
11 of at least 72-point font or three-quarters of an inch in height and
12 width.

13 ~~SEC. 34.~~

14 *SEC. 31.* Section 7030 of the Business and Professions Code
15 is amended to read:

16 7030. (a) Except for contractors writing home improvement
17 contracts pursuant to Section 7151.2 and contractors writing service
18 and repair contracts pursuant to Section 7159.10, every person
19 licensed pursuant to this chapter shall include the following
20 statement in at least 10-point type on all written contracts with
21 respect to which the person is a prime contractor:

22 “Contractors are required by law to be licensed and regulated
23 by the Contractors State License Board, which has jurisdiction to
24 investigate complaints against contractors if a complaint regarding
25 a patent act or omission is filed within four years of the date of the
26 alleged violation. A complaint regarding a latent act or omission
27 pertaining to structural defects must be filed within 10 years of
28 the date of the alleged violation. Any questions concerning a
29 contractor may be referred to the Registrar, Contractors State
30 License Board, P.O. Box 26000, Sacramento, CA 95826.”

31 (b) Every person licensed pursuant to this chapter shall include
32 the following statement in at least 12-point type in all home
33 improvement contracts written pursuant to Section 7151.2 and
34 service and repair contracts written pursuant to Section 7159.10:

35 “Information about the Contractors State License Board (CSLB):
36 CSLB is the state consumer protection agency that licenses and
37 regulates construction contractors.

38 Contact CSLB for information about the licensed contractor you
39 are considering, including information about disclosable

1 complaints, disciplinary actions, and civil judgments that are
2 reported to CSLB.

3 Use only licensed contractors. If you file a complaint against a
4 licensed contractor within the legal deadline (usually four years),
5 CSLB has authority to investigate the complaint. If you use an
6 unlicensed contractor, CSLB may not be able to help you resolve
7 your complaint. Your only remedy may be in civil court, and you
8 may be liable for damages arising out of any injuries to the
9 unlicensed contractor or the unlicensed contractor's employees.

10 For more information:

11 Visit CSLB's Web site at www.cslb.ca.gov

12 Call CSLB at 800-321-CSLB (2752)

13 Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

14 (c) Failure to comply with the notice requirements set forth in
15 subdivision (a) or (b) of this section is cause for disciplinary action.

16 ~~SEC. 35. Section 7030.1 of the Business and Professions Code~~
17 ~~is amended to read:~~

18 ~~7030.1. (a) A contractor who has his or her license suspended~~
19 ~~or revoked two or more times within an eight-year period shall~~
20 ~~disclose either in capital letters in 10-point roman boldface type~~
21 ~~or in contrasting red print in at least 8-point roman boldface type,~~
22 ~~in a document provided prior to entering into a contract to perform~~
23 ~~work on residential property with four or fewer units, any~~
24 ~~disciplinary license suspension or license revocation during the~~
25 ~~last eight years resulting from any violation of this chapter by the~~
26 ~~contractor, whether or not the suspension or revocation was stayed.~~

27 ~~(b) The disclosure notice required by this section may be~~
28 ~~provided in a bid, estimate, or other document prior to entering~~
29 ~~into a contract.~~

30 ~~(c) A violation of this section is subject to the following~~
31 ~~penalties:~~

32 ~~(1) A penalty of one thousand dollars (\$1,000) shall be assessed~~
33 ~~for the first violation.~~

34 ~~(2) A penalty of two thousand five hundred dollars (\$2,500)~~
35 ~~shall be assessed for the second violation.~~

36 ~~(3) A penalty of five thousand dollars (\$5,000) shall be assessed~~
37 ~~for a third violation in addition to a one-year suspension of license~~
38 ~~by operation of law.~~

39 ~~(4) A fourth violation shall result in the revocation of license~~
40 ~~in accordance with this chapter.~~

1 ~~SEC. 36.~~

2 *SEC. 32.* Section 7031 of the Business and Professions Code
3 is amended to read:

4 7031. (a) Except as provided in subdivision (e), no person
5 engaged in the business or acting in the capacity of a contractor
6 may bring or maintain any action, or recover in law or equity in
7 any action, in any court of this state for the collection of
8 compensation for the performance of any act or contract where a
9 license is required by this chapter without alleging that he or she
10 was a duly licensed contractor at all times during the performance
11 of that act or contract, regardless of the merits of the cause of action
12 brought by the person, except that this prohibition shall not apply
13 to contractors who are each individually licensed under this chapter
14 but who fail to comply with Section 7029.

15 (b) Except as provided in subdivision (e), a person who utilizes
16 the services of an unlicensed contractor may bring an action in
17 any court of competent jurisdiction in this state to recover all
18 compensation paid to the unlicensed contractor for performance
19 of any act or contract.

20 (c) A security interest taken to secure any payment for the
21 performance of any act or contract for which a license is required
22 by this chapter is unenforceable if the person performing the act
23 or contract was not a duly licensed contractor at all times during
24 the performance of the act or contract.

25 (d) If licensure or proper licensure is controverted, then proof
26 of licensure pursuant to this section shall be made by production
27 of a verified certificate of licensure from the Contractors State
28 License Board, which establishes that the individual or entity
29 bringing the action was duly licensed in the proper classification
30 of contractors at all times during the performance of any act or
31 contract covered by the action. Nothing in this subdivision shall
32 require any person or entity controverting licensure or proper
33 licensure to produce a verified certificate. When licensure or proper
34 licensure is controverted, the burden of proof to establish licensure
35 or proper licensure shall be on the licensee.

36 (e) The judicial doctrine of substantial compliance shall not
37 apply under this section where the person who engaged in the
38 business or acted in the capacity of a contractor has never been a
39 duly licensed contractor in this state. However, notwithstanding
40 subdivision (b) of Section 143, the court may determine that there

1 has been substantial compliance with licensure requirements under
2 this section if it is shown at an evidentiary hearing that the person
3 who engaged in the business or acted in the capacity of a contractor
4 (1) had been duly licensed as a contractor in this state prior to the
5 performance of the act or contract, (2) acted reasonably and in
6 good faith to maintain proper licensure, (3) did not know or
7 reasonably should not have known that he or she was not duly
8 licensed when performance of the act or contract commenced, and
9 (4) acted promptly and in good faith to reinstate his or her license
10 upon learning it was invalid.

11 (f) The exceptions to the prohibition against the application of
12 the judicial doctrine of substantial compliance found in subdivision
13 (e) shall apply to all contracts entered into on or after January 1,
14 1992, and to all actions or arbitrations arising therefrom, except
15 that the amendments to subdivisions (e) and (f) enacted during the
16 1994 portion of the 1993–94 Regular Session of the Legislature
17 shall not apply to either of the following:

18 (1) Any legal action or arbitration commenced prior to January
19 1, 1995, regardless of the date on which the parties entered into
20 the contract.

21 (2) Any legal action or arbitration commenced on or after
22 January 1, 1995, if the legal action or arbitration was commenced
23 prior to January 1, 1995, and was subsequently dismissed.

24 ~~SEC. 37.~~

25 *SEC. 33.* Section 7034 of the Business and Professions Code
26 is amended to read:

27 7034. (a) No contractor who is required to be licensed under
28 this chapter shall insert in any contract, or be a party with a
29 subcontractor who is licensed under this chapter to any contract
30 that contains, a provision, clause, covenant, or agreement that is
31 void or unenforceable under Section 2782 of the Civil Code.

32 (b) No contractor who is required to be licensed under this
33 chapter shall require a waiver of lien rights from any subcontractor,
34 employee, or supplier in violation of Section 3262 of the Civil
35 Code.

36 ~~SEC. 38.~~

37 *SEC. 34.* Section 7042.1 of the Business and Professions Code
38 is amended to read:

39 7042.1. (a) Notwithstanding any other provisions of this
40 chapter, gas, heat, or electrical corporations and their subsidiaries

1 that are regulated as public utilities by the Public Utilities
2 Commission shall not conduct work for which a contractor license
3 is required, except under any one or more of the following
4 conditions:

5 (1) The work is performed upon the gas, heat, or electrical
6 corporation's properties.

7 (2) The work is performed through a contract with a contractor
8 or contractors licensed pursuant to this chapter or the work is
9 performed for low-income citizens pursuant to a program
10 authorized by order of the Public Utilities Commission.

11 (3) The work is undertaken by the gas, heat, or electrical
12 corporation in furtherance of the generation, transmission, or
13 distribution of electricity, gas, or steam, whether within or without
14 the service area of the corporation, if any work performed within
15 a structure and beyond a customer's utility meter is necessary to
16 protect the public safety or to avoid interruption of service.

17 (4) The work is otherwise exempt from the provisions of this
18 chapter.

19 (5) The work is performed to comply with programs or
20 procedures ordered or authorized by the Public Utilities
21 Commission not inconsistent with the objectives expressed in
22 Chapter 984 of the Statutes of 1983.

23 (b) For the purposes of this section, the following terms have
24 the following meanings:

25 (1) "Gas, heat, or electrical corporation properties" means
26 properties which a gas, heat, or electrical corporation owns or
27 leases, or over which it has been granted an easement for utility
28 purposes, or facilities which a gas, heat, or electrical corporation
29 owns or operates for utility purposes.

30 (2) "Subsidiaries" means subsidiaries of a gas, heat, or electrical
31 corporation regulated as public utilities by the Public Utilities
32 Commission which carry out activities solely for utility purposes.

33 (c) It is the intention of the Legislature in enacting this section
34 that public utility regulations be clearly based on the principle that
35 the energy conservation industry should be allowed to develop in
36 a competitive manner, as declared in Chapter 984 of the Statutes
37 of 1983.

38 ~~SEC. 39.~~

39 *SEC. 35.* Section 7055 of the Business and Professions Code
40 is amended to read:

1 7055. For the purpose of classification, the contracting business
2 includes any or all of the following branches:

3 (a) General Engineering contracting.

4 (b) General Building contracting.

5 (c) Specialty contracting.

6 ~~SEC. 40.~~

7 SEC. 36. Section 7056 of the Business and Professions Code
8 is amended to read:

9 7056. A General Engineering contractor is a contractor whose
10 principal contracting business is in connection with fixed works
11 requiring specialized engineering knowledge and skill, including
12 the following divisions or subjects: irrigation, drainage, water
13 power, water supply, flood control, inland waterways, harbors,
14 docks and wharves, shipyards and ports, dams and hydroelectric
15 projects, levees, river control and reclamation works, railroads,
16 highways, streets and roads, tunnels, airports and airways, sewers
17 and sewage disposal plants and systems, waste reduction plants,
18 bridges, overpasses, underpasses and other similar works, pipelines
19 and other systems for the transmission of petroleum and other
20 liquid or gaseous substances, parks, playgrounds and other
21 recreational works, refineries, chemical plants and similar industrial
22 plants requiring specialized engineering knowledge and skill,
23 powerhouses, power plants and other utility plants and installations,
24 mines and metallurgical plants, land leveling and earthmoving
25 projects, excavating, grading, trenching, paving and surfacing work
26 and cement and concrete works in connection with the above
27 mentioned fixed works.

28 ~~SEC. 41.~~

29 SEC. 37. Section 7057 of the Business and Professions Code
30 is amended to read:

31 7057. (a) Except as provided in this section, a General Building
32 contractor is a contractor whose principal contracting business is
33 in connection with any structure built, being built, or to be built,
34 for the support, shelter, and enclosure of persons, animals, chattels,
35 or movable property of any kind, requiring in its construction the
36 use of at least two unrelated building trades or crafts, or to do or
37 superintend the whole or any part thereof.

38 This does not include anyone who merely furnishes materials
39 or supplies under Section 7045 without fabricating them into, or

1 consuming them in the performance of, the work of the General
2 Building contractor.

3 (b) A General Building contractor may take a prime contract or
4 a subcontract for a framing or carpentry project. However, a
5 General Building contractor shall not take a prime contract for any
6 project involving trades other than framing or carpentry unless the
7 prime contract requires at least two unrelated building trades or
8 crafts other than framing or carpentry, or unless the General
9 Building contractor holds the appropriate license classification or
10 subcontracts with an appropriately licensed contractor to perform
11 the work. A General Building contractor shall not take a
12 subcontract involving trades other than framing or carpentry, unless
13 the subcontract requires at least two unrelated trades or crafts other
14 than framing or carpentry, or unless the General Building contractor
15 holds the appropriate license classification. The General Building
16 contractor may not count framing or carpentry in calculating the
17 two unrelated trades necessary in order for the General Building
18 contractor to be able to take a prime contract or subcontract for a
19 project involving other trades.

20 (c) No General Building contractor shall contract for any project
21 that includes the Fire Protection (C-16) classification as provided
22 for in Section 7026.12 or the Well Drilling (C-57) classification
23 as provided for in Section 13750.5 of the Water Code, unless the
24 General Building contractor holds the appropriate license
25 classification, or subcontracts with the appropriately licensed
26 contractor.

27 ~~SEC. 42.~~

28 *SEC. 38.* Section 7058 of the Business and Professions Code
29 is amended to read:

30 7058. (a) A Specialty contractor is a contractor whose
31 operations involve the performance of construction work requiring
32 special skill and whose principal contracting business involves the
33 use of specialized building trades or crafts.

34 (b) A Specialty contractor includes a contractor whose
35 operations include the business of servicing or testing fire
36 extinguishing systems.

37 (c) A Specialty contractor includes a contractor whose operations
38 are concerned with the installation and laying of carpets, linoleum,
39 and resilient floor covering.

(d) A Specialty contractor includes a contractor whose operations are concerned with preparing or removing roadway construction zones, lane closures, flagging, or traffic diversions on roadways, including, but not limited to, public streets, highways, or any public conveyance.

~~SEC. 43.~~

SEC. 39. Section 7058.5 of the Business and Professions Code is amended to read:

7058.5. (a) No contractor shall engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, which involves 100 square feet or more of surface area of asbestos containing materials, unless the qualifier for the license passes an asbestos certification examination. Additional updated asbestos certification examinations may be required based on new health and safety information. The decision on whether to require an updated certification examination shall be made by the Contractors State License Board, in consultation with the Division of Occupational Safety and Health in the Department of Industrial Relations and the State Department of Public Health Services.

No asbestos certification examination shall be required for contractors involved with the installation, maintenance, and repair of asbestos cement pipe or sheets, vinyl asbestos floor materials, or asbestos bituminous or resinous materials.

“Asbestos” as used in this section, has the same meaning as defined in Section 6501.7 of the Labor Code.

(b) The Contractors State License Board shall develop, and deliver to all applicants with the request for bond and fee, a booklet containing information relative to handling and disposal of asbestos, together with an open book examination concerning asbestos-related work. All applicants for an initial contractor license and all applicants filing a delinquent renewal application who have not previously completed the open book examination shall complete and sign the open book examination and submit it to the Contractors State License Board with the required renewal or bond and fee.

~~SEC. 44.~~

SEC. 40. Section 7058.6 of the Business and Professions Code is amended to read:

7058.6. (a) The board shall not issue an asbestos certification, as required by Section 7058.5, unless the contractor is registered

1 with the Division of Occupational Safety and Health of the
2 Department of Industrial Relations pursuant to Section 6501.5 of
3 the Labor Code. The board may issue an asbestos certification to
4 a contractor who is not registered, provided the contractor in a
5 written statement acknowledges that he or she does not perform
6 asbestos-related work. The board shall notify both the division and
7 the contractor, in writing, of the contractor's passage of the
8 certification examination, for the purpose of allowing the contractor
9 to satisfy the requirement of paragraph (1) of subdivision (a) of
10 Section 6501.5 of the Labor Code. The contractor shall register
11 with the division within 90 days from the date the contractor is
12 notified of the passage of the certification examination. The board
13 may require a reexamination if the contractor fails to register within
14 90 days following issuance of the notification. Applicable test fees
15 shall be paid for any reexamination required under this section.

16 (b) Any contractor who is certified to engage in asbestos-related
17 work shall present proof of current registration with the division
18 pursuant to Section 6501.5 of the Labor Code upon application
19 for renewal of his or her license, if the contractor engages in
20 asbestos-related work, as defined in Section 6501.8 of the Labor
21 Code.

22 (c) A contractor who is not certified pursuant to this section
23 may bid on and contract to perform a project involving
24 asbestos-related work as long as the asbestos-related work is
25 performed by a contractor who is certified and registered pursuant
26 to this section and Section 6501.5 of the Labor Code.

27 (d) The board shall obtain and periodically update the list of
28 contractors certified to engage in asbestos-related work who are
29 registered pursuant to Section 6501.5 of the Labor Code.

30 ~~SEC. 45.~~

31 *SEC. 41.* Section 7058.7 of the Business and Professions Code
32 is amended to read:

33 7058.7. (a) No contractor may engage in a removal or remedial
34 action, as defined in subdivision (d), unless the qualifier for the
35 license has passed an approved hazardous substance certification
36 examination.

37 (b) (1) The Contractors State License Board, the Division of
38 Occupational Safety and Health of the Department of Industrial
39 Relations, and the Department of Toxic Substances Control shall
40 jointly select an advisory committee, which shall be composed of

1 two representatives of hazardous substance removal workers in
2 California, two general engineering contractors in California, and
3 two representatives of insurance companies in California who shall
4 be selected by the Insurance Commissioner.

5 (2) The Contractors State License Board shall develop a written
6 test for the certification of contractors engaged in hazardous
7 substance removal or remedial action, in consultation with the
8 Division of Occupational Safety and Health, the State Water
9 Resources Control Board, the Department of Toxic Substances
10 Control, and the advisory committee.

11 (c) The Contractors State License Board may require additional
12 updated approved hazardous substance certification examinations
13 of licensees currently certified based on new public or occupational
14 health and safety information. The Contractors State License Board,
15 in consultation with the Department of Toxic Substances Control
16 and the State Water Resources Control Board, shall approve other
17 initial and updated hazardous substance certification examinations
18 and determine whether to require an updated certification
19 examination of all current certificate holders.

20 (d) For purposes of this section “removal or remedial action”
21 has the same meaning as found in Chapter 6.8 (commencing with
22 Section 25300) of Division 20 of the Health and Safety Code, if
23 the action requires the contractor to dig into the surface of the earth
24 and remove the dug material and the action is at a site listed
25 pursuant to Section 25356 of the Health and Safety Code or any
26 other site listed as a hazardous substance release site by the
27 Department of Toxic Substances Control or a site listed on the
28 National Priorities List compiled pursuant to the Comprehensive
29 Environmental Response, Compensation, and Liability Act of 1980
30 (42 U.S.C. Sec. 9601 et seq.). “Removal or remedial action” does
31 not include asbestos-related work, as defined in Section 6501.8 of
32 the Labor Code, or work related to a hazardous substance spill on
33 a highway.

34 (e) (1) A contractor may not install or remove an underground
35 storage tank, unless the contractor has passed the hazardous
36 substance certification examination developed pursuant to this
37 section.

38 (2) A contractor who is not certified may bid on or contract for
39 the installation or removal of an underground tank, if the work is
40 performed by a contractor who is certified pursuant to this section.

1 (3) For purposes of this subdivision, “underground storage tank”
2 has the same meaning as defined in subdivision (y) of Section
3 25281 of the Health and Safety Code.

4 ~~SEC. 46.~~

5 *SEC. 42.* Section 7058.8 of the Business and Professions Code
6 is amended to read:

7 7058.8. The board shall make available to the public, upon
8 request, information about contracting for the removal or
9 encapsulation of asbestos-containing materials in a building
10 including all of the following:

11 (a) Steps to take when contracting with a company to remove
12 asbestos.

13 (b) Existing laws and regulations pertaining to asbestos-related
14 work in California.

15 (c) Basic health information as contained in the United States
16 Environmental Protection Agency publication, “Guidance for
17 Controlling Asbestos-Containing Materials in Buildings.”

18 (d) A current list of contractors who are certified pursuant to
19 Section 7058.5 to engage in asbestos-related work and who are
20 registered pursuant to Section 6501.5 of the Labor Code.

21 ~~SEC. 47.~~

22 *SEC. 43.* Section 7059 of the Business and Professions Code
23 is amended to read:

24 7059. (a) The board may adopt reasonably necessary rules and
25 regulations to effect the classification of contractors in a manner
26 consistent with established usage and procedure as found in the
27 construction business, and may limit the field and scope of the
28 operations of a licensed contractor to those in which he or she is
29 classified and qualified to engage, as defined by Sections 7055,
30 7056, 7057, and 7058. A licensee may make application for
31 classification and be classified in more than one classification if
32 the licensee meets the qualifications prescribed by the board for
33 such additional classification or classifications. The application
34 shall be in a form as prescribed by the registrar and shall be
35 accompanied by the application fee fixed by this chapter. No
36 license fee shall be charged for an additional classification or
37 classifications.

38 Nothing contained in this section shall prohibit a Specialty
39 contractor from taking and executing a contract involving the use
40 of two or more crafts or trades, if the performance of the work in

1 the crafts or trades, other than in which he or she is licensed, is
2 incidental and supplemental to the performance of the work in the
3 craft for which the Specialty contractor is licensed.

4 (b) In public works contracts, as defined in Section 1101 of the
5 Public Contract Code, the awarding authority shall determine the
6 license classification necessary to bid and perform the project. In
7 no case shall the awarding authority award a prime contract to a
8 Specialty contractor whose classification constitutes less than a
9 majority of the project. When a Specialty contractor is authorized
10 to bid a project, all work to be performed outside of his or her
11 license specialty, except work authorized by subdivision (a), shall
12 be performed by a licensed subcontractor in compliance with the
13 Subletting and Subcontracting Fair Practices Act (Chapter 4
14 (commencing with Section 4100) of Part 1 of Division 2 of the
15 Public Contract Code).

16 ~~SEC. 48.~~

17 *SEC. 44.* Section 7065.2 of the Business and Professions Code
18 is amended to read:

19 7065.2. Notwithstanding Section 7065, the registrar may waive
20 the examination for a contractor license if the applicant has
21 previously held a valid contractor license in this state and has been
22 acting in the capacity of a contractor for the United States
23 government in a position exempt from licensure under this chapter.

24 ~~SEC. 49.~~

25 *SEC. 45.* Section 7065.3 of the Business and Professions Code
26 is amended to read:

27 7065.3. Notwithstanding Section 7065, upon a conclusive
28 showing by a licensee that he or she possesses experience
29 satisfactory to the registrar in the classification applied for, an
30 additional classification may be added, without further
31 examination, under all of the following conditions:

32 (a) For five of the seven years immediately preceding the
33 application, the qualifying individual of the licensee has been listed
34 as a member of the personnel of any licensee whose license was
35 active and in good standing, and who during the period listed on
36 a license was actively engaged in the licensee's construction
37 activities.

38 (b) The qualifying individual for the applicant has had within
39 the last 10 years immediately preceding the filing of the
40 application, not less than four years experience as a journeyman,

1 foreman, supervising employee or contractor in the classification
2 within which the licensee intends to engage in the additional
3 classification as a contractor.

4 (c) The application is, as determined by the registrar, for a
5 classification that is closely related to the classification or
6 classifications in which the licensee is licensed, or the qualifying
7 individual is associated with a licensed General Engineering
8 contractor or licensed General Building contractor and is applying
9 for a classification that is a significant component of the licensed
10 contractor's construction business as determined by the registrar.
11 This section shall not apply to an applicant who is licensed solely
12 within the Limited-Specialty classifications.

13 Pursuant to Section 7065, the registrar shall conduct a
14 comprehensive field investigation of no less than 3 percent of
15 applications filed under this section to ensure that the applicants
16 met the experience requirements of this section and shall make
17 public, at quarterly meetings of the Contractors State License
18 Board, a listing of all applications approved under this section
19 during the previous 12 months, including, but not limited to, the
20 name of the applicant, license number, classification applied for,
21 and existing classifications.

22 ~~SEC. 50.~~

23 *SEC. 46.* Section 7068.5 of the Business and Professions Code
24 is amended to read:

25 7068.5. It is a misdemeanor for any person other than the
26 examinee named in the application to take the qualifying
27 examination on behalf of an applicant for a contractor license.

28 ~~SEC. 51.~~

29 *SEC. 47.* Section 7071.5 of the Business and Professions Code
30 is amended to read:

31 7071.5. The contractor bond required by this article shall be
32 executed by an admitted surety in favor of the State of California,
33 in a form acceptable to the registrar and filed with the registrar by
34 the licensee or applicant. The contractor bond shall be for the
35 benefit of the following:

36 (a) A homeowner contracting for home improvement upon the
37 homeowner's personal family residence damaged as a result of a
38 violation of this chapter by the licensee.

39 (b) A property owner contracting for the construction of a
40 single-family dwelling who is damaged as a result of a violation

1 of this chapter by the licensee. That property owner shall only
2 recover under this subdivision if the single-family dwelling is not
3 intended for sale or offered for sale at the time the damages were
4 incurred.

5 (c) A person damaged as a result of a willful and deliberate
6 violation of this chapter by the licensee, or by the fraud of the
7 licensee in the execution or performance of a construction contract.

8 (d) An employee of the licensee damaged by the licensee's
9 failure to pay wages.

10 (e) A person or entity, including an express trust fund described
11 in Section 3111 of the Civil Code, to whom a portion of the
12 compensation of an employee of a licensee is paid by agreement
13 with that employee or the collective bargaining agent of that
14 employee, damaged as the result of the licensee's failure to pay
15 fringe benefits for its employees, including, but not limited to,
16 employer payments described in Section 1773.1 of the Labor Code
17 and regulations thereunder (without regard to whether the work
18 was performed on a private or public work). Damage to an express
19 trust fund is limited to actual employer payments required to be
20 made on behalf of employees of the licensee, as part of the overall
21 compensation of those employees, which the licensee fails to pay.

22 ~~SEC. 52.~~

23 *SEC. 48.* Section 7071.6 of the Business and Professions Code
24 is amended to read:

25 7071.6. (a) The board shall require as a condition precedent
26 to the issuance, reinstatement, reactivation, renewal, or continued
27 maintenance of a license, that the applicant or licensee file or have
28 on file a contractor bond in the sum of twelve thousand five
29 hundred dollars (\$12,500).

30 (b) Excluding the claims brought by the beneficiaries specified
31 in subdivision (a) of Section 7071.5, the aggregate liability of a
32 surety on claims brought against a bond required by this section
33 shall not exceed the sum of seven thousand five hundred dollars
34 (\$7,500). The bond proceeds in excess of seven thousand five
35 hundred dollars (\$7,500) shall be reserved exclusively for the
36 claims of the beneficiaries specified in subdivision (a) of Section
37 7071.5. However, nothing in this section shall be construed to
38 prevent any beneficiary specified in subdivision (a) of Section
39 7071.5 from claiming or recovering the full measure of the bond
40 required by this section.

1 (c) No bond shall be required of a holder of a license that has
2 been inactivated on the official records of the board during the
3 period the license is inactive.

4 (d) Notwithstanding any other provision of law, as a condition
5 precedent to licensure, the board may require an applicant to post
6 a contractor bond in twice the amount required pursuant to
7 subdivision (a) until the time that the license is renewed, under the
8 following conditions:

9 (1) The applicant has either been convicted of a violation of
10 Section 7028 or has been cited pursuant to Section 7028.7.

11 (2) If the applicant has been cited pursuant to Section 7028.7,
12 the citation has been reduced to a final order of the registrar.

13 (3) The violation of Section 7028, or the basis for the citation
14 issued pursuant to Section 7028.7, constituted a substantial injury
15 to the public.

16 ~~SEC. 53.~~

17 *SEC. 49.* Section 7071.10 of the Business and Professions Code
18 is amended to read:

19 7071.10. The qualifying individual's bond required by this
20 article shall be executed by an admitted surety insurer in favor of
21 the State of California, in a form acceptable to the registrar and
22 filed with the registrar by the qualifying individual. The qualifying
23 individual's bond shall not be required in addition to the contractor
24 bond when, as set forth under paragraph (1) of subdivision (b) of
25 Section 7068, the individual proprietor has qualified for the license
26 by his or her personal appearance, or the qualifier is a general
27 partner as set forth under paragraph (2) of subdivision (b) of
28 Section 7068. The qualifying individual's bond shall be for the
29 benefit of the following persons:

30 (a) A homeowner contracting for home improvement upon the
31 homeowner's personal family residence damaged as a result of a
32 violation of this chapter by the licensee.

33 (b) A property owner contracting for the construction of a
34 single-family dwelling who is damaged as a result of a violation
35 of this chapter by the licensee. That property owner shall only
36 recover under this subdivision if the single-family dwelling is not
37 intended for sale or offered for sale at the time the damages were
38 incurred.

1 (c) A person damaged as a result of a willful and deliberate
2 violation of this chapter by the licensee, or by the fraud of the
3 licensee in the execution or performance of a construction contract.

4 (d) An employee of the licensee damaged by the licensee's
5 failure to pay wages.

6 (e) A person or entity, including an express trust fund described
7 in Section 3111 of the Civil Code, to whom a portion of the
8 compensation of an employee of a licensee is paid by agreement
9 with that employee or the collective bargaining agent of that
10 employee, that is damaged as the result of the licensee's failure to
11 pay fringe benefits for its employees including, but not limited to,
12 employer payments described in Section 1773.1 of the Labor Code
13 and regulations adopted thereunder (without regard to whether the
14 work was performed on a public or private work). Damage to an
15 express trust fund is limited to employer payments required to be
16 made on behalf of employees of the licensee, as part of the overall
17 compensation of those employees, which the licensee fails to pay.

18 ~~SEC. 54.~~

19 *SEC. 50.* Section 7071.12 of the Business and Professions Code
20 is amended to read:

21 7071.12. (a) Instead of the bond provided by this article, a
22 deposit may be given pursuant to Article 7 (commencing with
23 Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of
24 Civil Procedure.

25 (b) If the board is notified, in writing, of a civil action against
26 the deposit authorized under this section, the deposit or any portion
27 thereof shall not be released for any purpose, except as determined
28 by the court.

29 (c) If any deposit authorized under this section is insufficient
30 to pay, in full, all claims that have been adjudicated under any
31 action filed in accordance with this section, the sum of the deposit
32 shall be distributed to all claimants in proportion to the amount of
33 their respective claims.

34 (d) The following limitations periods apply to deposits in lieu
35 of the bond required by this article:

36 (1) Any action, other than an action to recover wages or fringe
37 benefits, against a deposit given in lieu of a contractor bond or
38 bond of a qualifying individual filed by an active licensee shall be
39 brought within three years after the expiration of the license period
40 during which the act or omission occurred, or within three years

1 of the date the license of the active licensee was inactivated,
2 canceled, or revoked by the board, whichever occurs first.

3 (2) Any action, other than an action to recover wages or fringe
4 benefits, against a deposit given in lieu of a disciplinary bond filed
5 by an active licensee pursuant to Section 7071.8 shall be brought
6 within three years after the expiration of the license period during
7 which the act or omission occurred, or within three years of the
8 date the license of the active licensee was inactivated, canceled,
9 or revoked by the board, or within three years after the last date
10 for which a deposit given in lieu of a disciplinary bond filed
11 pursuant to Section 7071.8 was required, whichever date is first.

12 (3) A claim to recover wages or fringe benefits shall be brought
13 within six months from the date that the wage or fringe benefit
14 delinquencies were discovered, but in no event shall a civil action
15 thereon be brought later than two years from the date the wage or
16 fringe benefit contributions were due.

17 (e) In any case in which a claim is filed against a deposit given
18 in lieu of a bond by any employee or by an employee organization
19 on behalf of an employee, concerning wages or fringe benefits
20 based upon the employee's employment, claims for the
21 nonpayment shall be filed with the Labor Commissioner. The
22 Labor Commissioner shall, pursuant to the authority vested by
23 Section 96.5 of the Labor Code, conduct hearings to determine
24 whether or not the wages or fringe benefits should be paid to the
25 complainant. Upon a finding by the commissioner that the wages
26 or fringe benefits should be paid to the complainant, the
27 commissioner shall notify the registrar of the findings. The registrar
28 shall not make payment from the deposit on the basis of findings
29 by the commissioner for a period of 10 days following
30 determination of the findings. If, within the period, the complainant
31 or the contractor files written notice with the registrar and the
32 commissioner of an intention to seek judicial review of the findings
33 pursuant to Section 11523 of the Government Code, the registrar
34 shall not make payment if an action is actually filed, except as
35 determined by the court. If, thereafter, no action is filed within 60
36 days following determination of findings by the commissioner,
37 the registrar shall make payment from the deposit to the
38 complainant.

39 (f) Legal fees may not be charged by the board against any
40 deposit posted pursuant to this section.

1 ~~SEC. 55.~~

2 ~~SEC. 51.~~ Section 7071.14 of the Business and Professions Code
3 is amended to read:

4 7071.14. No licensee or applicant for a license under this
5 chapter shall be denied a contractor license bond solely because
6 of his race, religious creed, color, national origin, ancestry, or sex.
7 Whoever denies a contractor license bond solely on the grounds
8 specified herein is liable for each and every such offense for the
9 actual damages, and two hundred fifty dollars (\$250) in addition
10 thereto, suffered by the licensee or applicant for a license.

11 ~~SEC. 56.~~

12 ~~SEC. 52.~~ Section 7080.5 of the Business and Professions Code
13 is amended to read:

14 7080.5. When an application has been accepted by the registrar,
15 the name and address of the applicant, every classification for
16 which the applicant has applied, and the names and titles of all
17 personnel who have signed the application shall be publicly posted
18 by the registrar, on the day following acceptance, in the office of
19 the Contractors State License Board in Sacramento.

20 ~~SEC. 57.~~

21 ~~SEC. 53.~~ Section 7085.5 of the Business and Professions Code
22 is amended to read:

23 7085.5. Arbitrations of disputes arising out of cases filed with
24 or by the board shall be conducted in accordance with the following
25 rules:

26 (a) All “agreements to arbitrate” shall include the names,
27 addresses, and telephone numbers of the parties to the dispute, the
28 issue in dispute, and the amount in dollars or any other remedy
29 sought. The appropriate fee shall be paid by the board from the
30 Contractors License Fund.

31 (b) (1) The board or appointed arbitration association shall
32 appoint an arbitrator in the following manner: immediately after
33 the filing of the agreement to arbitrate, the board or appointed
34 arbitration association shall submit simultaneously to each party
35 to the dispute, an identical list of names of persons chosen from
36 the panel. Each party to the dispute shall have seven days from
37 the mailing date in which to cross off any names to which it objects,
38 number the remaining names to indicate the order of preference,
39 and return the list to the board or appointed arbitration association.
40 If a party does not return the list within the time specified, all

1 persons named in the list are acceptable. From among the persons
2 who have been approved on both lists, and in accordance with the
3 designated order of mutual preference, the board or appointed
4 arbitration association shall appoint an arbitrator to serve. If the
5 parties fail to agree on any of the parties named, if acceptable
6 arbitrators are unable to act, or if, for any other reason, the
7 appointment cannot be made from the submitted lists, the board
8 or appointed arbitration association shall have the power to make
9 the appointment from among other members of the panel without
10 the submission of any additional lists. Each dispute shall be heard
11 and determined by one arbitrator unless the board or appointed
12 arbitration association, in its discretion, directs that a greater
13 number of arbitrators be appointed.

14 (2) In all cases in which a complaint has been referred to
15 arbitration pursuant to subdivision (b) of Section 7085, the board
16 or the appointed arbitration association shall have the power to
17 appoint an arbitrator to hear the matter.

18 (3) The board shall adopt regulations setting minimum
19 qualification standards for listed arbitrators based upon relevant
20 training, experience, and performance.

21 (c) No person shall serve as an arbitrator in any arbitration in
22 which that person has any financial or personal interest in the result
23 of the arbitration. Prior to accepting an appointment, the
24 prospective arbitrator shall disclose any circumstances likely to
25 prevent a prompt hearing or to create a presumption of bias. Upon
26 receipt of that information, the board or appointed arbitration
27 association shall immediately replace the arbitrator or communicate
28 the information to the parties for their comments. Thereafter, the
29 board or appointed arbitration association shall determine whether
30 the arbitrator should be disqualified and shall inform the parties
31 of its decision, which shall be conclusive.

32 (d) The board or appointed arbitration association may appoint
33 another arbitrator if a vacancy occurs, or if an appointed arbitrator
34 is unable to serve in a timely manner.

35 (e) (1) The board or appointed arbitration association shall
36 provide the parties with a list of the times and dates, and locations
37 of the hearing to be held. The parties shall notify the arbitrator,
38 within seven calendar days of the mailing of the list, of the times
39 and dates convenient to each party. If the parties fail to respond
40 to the arbitrator within the seven-day period, the arbitrator shall

1 fix the time, place, and location of the hearing. An arbitrator may,
2 at the arbitrator's sole discretion, make an inspection of the
3 construction site which is the subject of the arbitration. The
4 arbitrator shall notify the parties of the time and date set for the
5 inspection. Any party who so desires may be present at the
6 inspection.

7 (2) The board or appointed arbitration association shall fix the
8 time, place, and location of the hearing for all cases referred to
9 arbitration pursuant to subdivision (b) of Section 7085. An
10 arbitrator may, at the arbitrator's sole discretion, make an
11 inspection of the construction site which is the subject of the
12 arbitration. The arbitrator shall notify the parties of the time and
13 date set for the inspection. Any party who desires may be present
14 at the inspection.

15 (f) Any person having a direct interest in the arbitration is
16 entitled to attend the hearing. The arbitrator shall otherwise have
17 the power to require the exclusion of any witness, other than a
18 party or other essential person, during the testimony of any other
19 witness. It shall be discretionary with the arbitrator to determine
20 the propriety of the attendance of any other person.

21 (g) Hearings shall be adjourned by the arbitrator only for good
22 cause.

23 (h) A record is not required to be taken of the proceedings.
24 However, any party to the proceeding may have a record made at
25 its own expense. The parties may make appropriate notes of the
26 proceedings.

27 (i) The hearing shall be conducted by the arbitrator in any
28 manner which will permit full and expeditious presentation of the
29 case by both parties. Consistent with the expedited nature of
30 arbitration, the arbitrator shall establish the extent of, and schedule
31 for, the production of relevant documents and other information,
32 the identification of any witnesses to be called, and a schedule for
33 any hearings to elicit facts solely within the knowledge of one
34 party. The complaining party shall present its claims, proofs, and
35 witnesses, who shall submit to questions or other examination.
36 The defending party shall then present its defenses, proofs, and
37 witnesses, who shall submit to questions or other examination.
38 The arbitrator has discretion to vary this procedure but shall afford
39 full and equal opportunity to the parties for the presentation of any
40 material or relevant proofs.

1 (j) The arbitration may proceed in the absence of any party who,
2 after due notice, fails to be present. The arbitrator shall require the
3 attending party to submit supporting evidence in order to make an
4 award. An award for the attending party shall not be based solely
5 on the fact that the other party has failed to appear at the arbitration
6 hearing.

7 (k) The arbitrator shall be the sole judge of the relevancy and
8 materiality of the evidence offered and conformity to legal rules
9 of evidence shall not be required.

10 (l) The arbitrator may receive and consider documentary
11 evidence. Documents to be considered by the arbitrator may be
12 submitted prior to the hearing. However, a copy shall be
13 simultaneously transmitted to all other parties and to the board or
14 appointed arbitration association for transmittal to the arbitrator
15 or board appointed arbitrator.

16 (m) The arbitrator shall specifically inquire of the parties
17 whether they have any further proofs to offer or witnesses to be
18 heard. Upon receiving negative replies, the arbitrator shall declare
19 the hearing closed and minutes thereof shall be recorded. If briefs
20 are to be filed, the hearing shall be declared closed as of the final
21 date set by the arbitrator for the receipt of briefs. If documents are
22 to be filed as requested by the arbitrator and the date set for their
23 receipt is later than that set for the receipt of briefs, the later date
24 shall be the date of closing the hearings. The time limit within
25 which the arbitrator is required to make the award shall commence
26 to run, in the absence of other agreements by the parties, upon the
27 closing of the hearings.

28 (n) The hearing may be reopened on the arbitrator's own motion.

29 (o) Any party who proceeds with the arbitration after knowledge
30 that any provision or requirement of these rules has not been
31 complied with, and who fails to state his or her objections to the
32 arbitrator in writing, within 10 calendar days of close of hearing,
33 shall be deemed to have waived his or her right to object.

34 (p) (1) Except as provided in paragraph (2), any papers or
35 process necessary or proper for the initiation or continuation of an
36 arbitration under these rules and for any court action in connection
37 therewith, or for the entry of judgment on an award made
38 thereunder, may be served upon any party (A) by regular mail
39 addressed to that party or his or her attorney at the party's last
40 known address, or (B) by personal service.

(2) Notwithstanding paragraph (1), in all cases referred to arbitration pursuant to subdivision (b) of Section 7085 in which the contractor fails or refuses to return an executed copy of the notice to arbitrate within the time specified, any papers or process specified in paragraph (1) to be sent to the contractor, including the notice of hearing, shall be mailed by certified mail to the contractor's address of record.

(q) The award shall be made promptly by the arbitrator, and unless otherwise agreed by the parties, no later than 30 calendar days from the date of closing the hearing, closing a reopened hearing, or if oral hearing has been waived, from the date of transmitting the final statements and proofs to the arbitrator.

The arbitrator may, for good cause, extend any period of time established by these rules, except the time for making the award. The arbitrator shall notify the parties of any extension and the reason therefor.

(r) (1) The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of the board's referral and the requirements of the board. The arbitrator, in his or her sole discretion, may award costs or expenses.

(2) The amendments made in paragraph (1) during the 2003–04 Regular Session shall not be interpreted to prevent an arbitrator from awarding a complainant all direct costs and expenses for the completion or repair of the project.

(s) The award shall become final 30 calendar days from the date the arbitration award is issued. The arbitrator, upon written application of a party to the arbitration, may correct the award upon the following grounds:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any person, things, or property referred to in the award.

(2) There is any other clerical error in the award, not affecting the merits of the controversy.

An application for correction of the award shall be made within 10 calendar days of the date of service of the award by serving a copy of the application on the arbitrator, and all other parties to the arbitration. Any party to the arbitration may make a written objection to the application for correction by serving a copy of the written objection on the arbitrator, the board, and all other parties

1 to the arbitration, within 10 calendar days of the date of service of
2 the application for correction.

3 The arbitrator shall either deny the application or correct the
4 award within 30 calendar days of the date of service of the original
5 award by mailing a copy of the denial or correction to all parties
6 to the arbitration. Any appeal from the denial or correction shall
7 be filed with a court of competent jurisdiction and a true copy
8 thereof shall be filed with the arbitrator or appointed arbitration
9 association within 30 calendar days after the award has become
10 final. The award shall be in writing, and shall be signed by the
11 arbitrator or a majority of them. If no appeal is filed within the
12 30-calendar day period, it shall become a final order of the registrar.

13 (t) Service of the award by certified mail shall be effective if a
14 certified letter containing the award, or a true copy thereof, is
15 mailed by the arbitrator or arbitration association to each party or
16 to a party's attorney of record at their last known address, address
17 of record, or by personally serving any party. Service may be
18 proved in the manner authorized in civil actions.

19 (u) The board shall pay the expenses of one expert witness
20 appointed by the board when the services of an expert witness are
21 requested by either party involved in arbitration pursuant to this
22 article and the case involves workmanship issues that are itemized
23 in the complaint and have not been repaired or replaced. Parties
24 who choose to present the findings of another expert witness as
25 evidence shall pay for those services. Payment for expert witnesses
26 appointed by the board shall be limited to the expert witness costs
27 for inspection of the problem at the construction site, preparation
28 of the expert witness' report, and expert witness fees for appearing
29 or testifying at a hearing. All requests for payment to an expert
30 witness shall be submitted on a form that has been approved by
31 the registrar. All requests for payment to an expert witness shall
32 be reviewed and approved by the board prior to payment. The
33 registrar shall advise the parties that names of industry experts
34 may be obtained by requesting this information from the registrar.

35 (v) The arbitrator shall interpret and apply these rules insofar
36 as they relate to his or her powers and duties.

37 (w) The following shall apply as to court procedure and
38 exclusion of liability:

1 (1) The board, the appointed arbitration association, or any
2 arbitrator in a proceeding under these rules is not a necessary party
3 in judicial proceedings relating to the arbitration.

4 (2) Parties to these rules shall be deemed to have consented that
5 judgment upon the arbitration award may be entered in any federal
6 or state court having jurisdiction thereof.

7 (3) The board, the appointed arbitration association, or any
8 arbitrator is not liable to any party for any act or omission in
9 connection with any arbitration conducted under these rules.

10 ~~SEC. 58. Section 7090.5 of the Business and Professions Code~~
11 ~~is amended to read:~~

12 ~~7090.5. If a licensee commits a fraudulent act that is a ground~~
13 ~~for disciplinary action under Section 7116, the correction of any~~
14 ~~condition resulting from that act shall not, in and of itself, preclude~~
15 ~~the registrar from taking disciplinary action under this article.~~

16 ~~If the registrar finds a licensee has engaged in repeated acts that~~
17 ~~would be grounds for disciplinary action under this article, and if~~
18 ~~by correction of conditions resulting from those acts the licensee~~
19 ~~avoided disciplinary action as to each individual act, the correction~~
20 ~~of those conditions shall not, in and of itself, preclude the registrar~~
21 ~~from taking disciplinary action under this article.~~

22 ~~SEC. 59. Section 7095 of the Business and Professions Code~~
23 ~~is amended to read:~~

24 ~~7095. The decision may do any or all of the following:~~

25 ~~(a) Provide for the immediate complete suspension by the~~
26 ~~licensee of all operations as a contractor during the period fixed~~
27 ~~by the decision.~~

28 ~~(b) Permit the licensee to complete any or all contracts shown~~
29 ~~by competent evidence taken at the hearing to be then uncompleted.~~

30 ~~(c) Impose upon the licensee compliance with such specific~~
31 ~~conditions as may be just in connection with his or her operations~~
32 ~~as a contractor disclosed at the hearing and may further provide~~
33 ~~that until such conditions are complied with no application for~~
34 ~~restoration of the suspended or revoked license shall be accepted~~
35 ~~by the registrar.~~

36 ~~SEC. 60.~~

37 ~~SEC. 54. Section 7099.4 of the Business and Professions Code~~
38 ~~is amended to read:~~

39 ~~7099.4. If, within 15 working days from service of the citation~~
40 ~~issued by the registrar, the licensee or applicant for licensure fails~~

1 to notify the registrar that he or she intends to contest the citation,
2 the citation shall be deemed a final order of the registrar and not
3 be subject to review by any court or agency. The 15-day period
4 may be extended by the registrar for cause.

5 ~~SEC. 61.~~

6 *SEC. 55.* Section 7099.10 of the Business and Professions Code
7 is amended to read:

8 7099.10. (a) If, upon investigation, the registrar has probable
9 cause to believe that a licensee, an applicant for a license, or an
10 unlicensed individual acting in the capacity of a contractor who is
11 not otherwise exempted from the provisions of this chapter, has
12 violated Section 7027.1 by advertising for construction or work
13 of improvement covered by this chapter in an alphabetical or
14 classified directory, without being properly licensed, the registrar
15 may issue a citation under Section 7099 containing an order of
16 correction that requires the violator to cease the unlawful
17 advertising and to notify the telephone company furnishing services
18 to the violator to disconnect the telephone service furnished to any
19 telephone number contained in the unlawful advertising, and that
20 subsequent calls to that number shall not be referred by the
21 telephone company to any new telephone number obtained by that
22 person.

23 (b) If the person to whom a citation is issued under subdivision
24 (a) notifies the registrar that he or she intends to contest the citation,
25 the registrar shall afford an opportunity for a hearing, as specified
26 in Section 7099.5, within 90 days after receiving the notification.

27 (c) If the person to whom a citation and order of correction is
28 issued under subdivision (a) fails to comply with the order of
29 correction after the order is final, the registrar shall inform the
30 Public Utilities Commission of the violation, and the Public
31 Utilities Commission shall require the telephone corporation
32 furnishing services to that person to disconnect the telephone
33 service furnished to any telephone number contained in the
34 unlawful advertising.

35 (d) The good faith compliance by a telephone corporation with
36 an order of the Public Utilities Commission to terminate service
37 issued pursuant to this section shall constitute a complete defense
38 to any civil or criminal action brought against the telephone
39 corporation arising from the termination of service.

1 ~~SEC. 62.~~ Section 7104 of the Business and Professions Code
2 ~~is amended to read:~~

3 ~~7104. When the board resolves a complaint, the complainant~~
4 ~~shall be provided written notification of the board's action and the~~
5 ~~reasons for taking that action. The board shall provide the same~~
6 ~~notice in writing to the contractor provided that the contractor is~~
7 ~~licensed and the notification would not jeopardize an action or~~
8 ~~investigation that involves the contractor.~~

9 ~~SEC. 63.~~

10 ~~SEC. 56.~~ Section 7116 of the Business and Professions Code
11 ~~is amended to read:~~

12 ~~7116. The doing of any willful or fraudulent act by the licensee~~
13 ~~as a contractor in consequence of which another is substantially~~
14 ~~injured constitutes a cause for disciplinary action.~~

15 ~~SEC. 64.~~

16 ~~SEC. 57.~~ Section 7118.4 of the Business and Professions Code
17 ~~is amended to read:~~

18 ~~7118.4. (a) If a contractor has made an inspection for the~~
19 ~~purpose of determining the presence of asbestos or the need for~~
20 ~~related remedial action with knowledge that the report has been~~
21 ~~required by a person as a condition of making a loan of money~~
22 ~~secured by the property, or is required by a public entity as a~~
23 ~~condition of issuing a permit concerning the property, the~~
24 ~~contractor shall disclose orally and in writing if it is owned or has~~
25 ~~any common ownership, or any financial relationship whatsoever,~~
26 ~~including, but not limited to, commissions or referral fees, with~~
27 ~~an entity in the business of performing the corrective work.~~

28 ~~(b) This section does not prohibit a contractor that has contracted~~
29 ~~to perform corrective work after the report of another company~~
30 ~~has indicated the presence of asbestos or the need for related~~
31 ~~remedial action from making its own inspection prior to performing~~
32 ~~that corrective work or from making an inspection to determine~~
33 ~~whether the corrective measures were successful and, if not,~~
34 ~~thereafter performing additional corrective work.~~

35 ~~(c) A violation of this section is grounds for disciplinary action.~~

36 ~~(d) A violation of this section is a misdemeanor punishable by~~
37 ~~a fine of not less than three thousand dollars (\$3,000) and not more~~
38 ~~than five thousand dollars (\$5,000), or by imprisonment in the~~
39 ~~county jail for not more than one year, or both.~~

1 (e) For the purpose of this section, “asbestos” has the meaning
2 set forth in Section 6501.7 of the Labor Code.

3 ~~SEC. 65.~~

4 *SEC. 58.* Section 7118.5 of the Business and Professions Code
5 is amended to read:

6 7118.5. Any contractor, applicant for licensure, or person
7 required to be licensed who, either knowingly or negligently, or
8 by reason of a failure to inquire, enters into a contract with another
9 person who is required to be, and is not, certified pursuant to
10 Section 7058.5 to engage in asbestos-related work, as defined in
11 Section 6501.8 of the Labor Code, is subject to the following
12 penalties:

13 (a) Conviction of a first offense is an infraction punishable by
14 a fine of not less than one thousand dollars (\$1,000) or more than
15 three thousand dollars (\$3,000), and by possible revocation or
16 suspension of any contractor license.

17 (b) Conviction of a subsequent offense is a misdemeanor
18 requiring revocation or suspension of any contractor license, and
19 a fine of not less than three thousand dollars (\$3,000) or more than
20 five thousand dollars (\$5,000), or imprisonment in the county jail
21 for not more than one year, or both the fine and imprisonment.

22 ~~SEC. 66.~~

23 *SEC. 59.* Section 7118.6 of the Business and Professions Code
24 is amended to read:

25 7118.6. Any contractor who, either knowingly or negligently,
26 or by reason of a failure to inquire, enters into a contract with
27 another person who is required to be, and is not certified pursuant
28 to Section 7058.7 to engage in a removal or remedial action, as
29 defined in Section 7058.7, is subject to the following penalties:

30 (a) Conviction of a first offense is an infraction punishable by
31 a fine of not less than one thousand dollars (\$1,000) or more than
32 three thousand dollars (\$3,000), and by possible revocation or
33 suspension of any contractor license.

34 (b) Conviction of a subsequent offense is a misdemeanor
35 requiring revocation or suspension of any contractor license, and
36 a fine of not less than three thousand dollars (\$3,000) or more than
37 five thousand dollars (\$5,000), or imprisonment in the county jail
38 for not more than one year, or both the fine and imprisonment.

1 ~~SEC. 67.~~

2 *SEC. 60.* Section 7119 of the Business and Professions Code
3 is amended to read:

4 7119. Willful failure or refusal without legal excuse on the part
5 of a licensee as a contractor to prosecute a construction project or
6 operation with reasonable diligence causing material injury to
7 another constitutes a cause for disciplinary action.

8 ~~SEC. 68.~~

9 *SEC. 61.* Section 7120 of the Business and Professions Code
10 is amended to read:

11 7120. Willful or deliberate failure by any licensee or agent or
12 officer thereof to pay any moneys when due for any materials or
13 services rendered in connection with his or her operations as a
14 contractor, when he or she has the capacity to pay or when he or
15 she has received sufficient funds therefor as payment for the
16 particular construction work, project, or operation for which the
17 services or materials were rendered or purchased constitutes a
18 cause for disciplinary action, as does the false denial of any such
19 amount due or the validity of the claim thereof with intent to secure
20 for himself or herself, his or her employer, or other person, any
21 discount upon such indebtedness or with intent to hinder, delay,
22 or defraud the person to whom such indebtedness is due.

23 ~~SEC. 69.~~

24 *SEC. 62.* Section 7123.5 of the Business and Professions Code
25 is amended to read:

26 7123.5. If a contractor is convicted of violating Section 396 of
27 the Penal Code or any substantially similar local ordinance in
28 connection with the sale, or offer for sale, of repair or
29 reconstruction services, as defined in Section 396 of the Penal
30 Code, the Contractors State License Board shall take disciplinary
31 action against the contractor, which shall include a suspension of
32 at least six months or the permanent revocation of the contractor's
33 license.

34 ~~SEC. 70.~~

35 *SEC. 63.* Section 7124.6 of the Business and Professions Code
36 is amended to read:

37 7124.6. (a) The registrar shall make available to members of
38 the public the date, nature, and status of all complaints on file
39 against a licensee that do either of the following:

40 (1) Have been referred for accusation.

1 (2) Have been referred for investigation after a determination
2 by board enforcement staff that a probable violation has occurred,
3 and have been reviewed by a supervisor, and regard allegations
4 that, if proven, would present a risk of harm to the public and
5 would be appropriate for suspension or revocation of the
6 contractor's license or criminal prosecution.

7 (b) The board shall create a disclaimer that shall accompany
8 the disclosure of a complaint that shall state that the complaint is
9 an allegation. The disclaimer may also contain any other
10 information the board determines would be relevant to a person
11 evaluating the complaint.

12 (c) A complaint resolved in favor of the contractor shall not be
13 subject to disclosure.

14 (d) Except as described in subdivision (e), the registrar shall
15 make available to members of the public the date, nature, and
16 disposition of all legal actions.

17 (e) Disclosure of legal actions shall be limited as follows:

18 (1) Citations shall be disclosed from the date of issuance and
19 for five years after the date of compliance if no additional
20 disciplinary actions have been filed against the licensee during the
21 five-year period. If additional disciplinary actions were filed against
22 the licensee during the five-year period, all disciplinary actions
23 shall be disclosed for as long as the most recent disciplinary action
24 is subject to disclosure under this section. At the end of the
25 specified time period, those citations shall no longer be disclosed.

26 (2) Accusations that result in suspension, stayed suspension, or
27 stayed revocation of the contractor license shall be disclosed from
28 the date the accusation is filed and for seven years after the
29 accusation has been settled, including the terms and conditions of
30 probation if no additional disciplinary actions have been filed
31 against the licensee during the seven-year period. If additional
32 disciplinary actions were filed against the licensee during the
33 seven-year period, all disciplinary actions shall be posted for as
34 long as the most recent disciplinary action is subject to disclosure
35 under this section. At the end of the specified time period, those
36 accusations shall no longer be disclosed.

37 (3) All revocations that are not stayed shall be disclosed
38 indefinitely from the effective date of the revocation.

1 ~~SEC. 71.~~

2 ~~SEC. 64.~~ Section 7125 of the Business and Professions Code,
3 as added by Section 2 of Chapter 38 of the Statutes of 2006, is
4 amended to read:

5 7125. (a) The board shall require, as a condition precedent to
6 the issuance, reinstatement, reactivation, renewal, or continued
7 maintenance of a license, that the applicant or licensee have on
8 file at all times a current and valid Certificate of Workers'
9 Compensation Insurance or Certification of Self-Insurance. A
10 Certificate of Workers' Compensation Insurance shall be issued
11 and filed, electronically or otherwise, by one or more insurers duly
12 licensed to write workers' compensation insurance in this state. A
13 Certification of Self-Insurance shall be issued and filed by the
14 Director of Industrial Relations. If reciprocity conditions exist, as
15 defined in Section 3600.5 of the Labor Code, the registrar shall
16 require the information deemed necessary to assure compliance
17 with this section.

18 (b) This section does not apply to an applicant or licensee who
19 has no employees provided that he or she files a statement with
20 the board on a form prescribed by the registrar prior to the issuance,
21 reinstatement, reactivation, or continued maintenance of a license,
22 certifying that he or she does not employ any person in any manner
23 so as to become subject to the workers' compensation laws of
24 California or is not otherwise required to provide for workers'
25 compensation insurance coverage under California law.

26 (c) No Certificate of Workers' Compensation Insurance,
27 Certification of Self-Insurance, or exemption-certificate is required
28 of a holder of a license that has been inactivated on the official
29 records of the board during the period the license is inactive.

30 (d) The insurer, including the State Compensation Insurance
31 Fund, shall report to the registrar the following information for
32 any policy required under this section: name, license number,
33 policy number, dates that coverage is scheduled to commence and
34 lapse, and cancellation date, if applicable.

35 (e) This section shall become operative on January 1, 2011.

36 ~~SEC. 72.~~

37 ~~SEC. 65.~~ Section 7126 of the Business and Professions Code
38 is amended to read:

1 7126. Any licensee or agent or officer thereof, who violates,
2 or does not comply with, any of the provisions of this article is
3 guilty of a misdemeanor.

4 ~~SEC. 73.~~

5 SEC. 66. Section 7135 of the Business and Professions Code
6 is amended to read:

7 7135. (a) The fees and civil penalties received under this
8 chapter shall be deposited in the Contractors License Fund. All
9 moneys in the fund are hereby appropriated for the purposes of
10 this chapter.

11 (b) It is the intent of the Legislature that the board shall use
12 moneys appropriated from the fund to improve its administrative
13 and investigative oversight activities and capacity.

14 ~~SEC. 74.~~

15 SEC. 67. Section 7136 of the Business and Professions Code
16 is amended to read:

17 7136. The director shall designate a sum not to exceed 10
18 percent of the total income of the Contractors State License Board
19 for each fiscal year to be transferred to the Consumer Affairs Fund
20 as the board's share of the cost of administration of the department.

21 ~~SEC. 75.~~

22 SEC. 68. Section 7137.5 of the Business and Professions Code
23 is amended to read:

24 7137.5. The sum of ten thousand dollars (\$10,000) shall be
25 transferred from the Contractors License Fund to the Controller
26 for the exclusive use of the California Uniform Construction Cost
27 Accounting Commission.

28 The commission shall prepare a recommendation to the
29 Legislature for a local public agency source to fund the commission
30 beginning July 1, 1991, which will provide revenue supported by
31 the contract activities represented by the commission's authority.

32 Upon adoption of this funding program, the commission shall
33 reimburse the Contractors License Fund in the amount of ten
34 thousand dollars (\$10,000).

35 ~~SEC. 76.~~

36 SEC. 69. Section 7138 of the Business and Professions Code
37 is amended to read:

38 7138. Notwithstanding any other provision of law, any fee paid
39 in connection with any service or application covered by Section

1 7137 shall accrete to the Contractors License Fund as an earned
2 fee and shall not be refunded.

3 ~~SEC. 77.~~

4 *SEC. 70.* Section 7139.1 of the Business and Professions Code
5 is amended to read:

6 7139.1. The Legislature hereby finds and declares all of the
7 following:

8 (a) There is a demand and increasing need for construction
9 management education programs and resources within the
10 postsecondary education system that prepare graduates for the
11 management of construction operations and companies regulated
12 by the Contractors State License Law and enforced by the
13 Contractors State License Board.

14 (b) Although construction management programs do exist within
15 the state university system, these programs are woefully
16 underfunded and insufficiently funded to provide training on
17 state-of-the-art management information systems for either
18 graduates or extension programs for continuing education of
19 licensed contractors. Construction industry associations have
20 provided some assistance through direct grants and scholarships,
21 but the industrywide service of these programs and the need for
22 additional assistance mandates broad based industrywide support.

23 (c) It is the intent of the Legislature that by enabling contractors
24 to designate a portion of their licensure fee and providing a format
25 for contractors to contribute funds to construction management
26 education, this article will receive broad based industry support.
27 In addition, this article allows the contractor to demonstrate the
28 importance of construction management education. This assistance
29 will enable greater development of construction management
30 curricula and will improve the overall quality of construction by
31 providing construction management training to California licensed
32 contractors and their current and future management personnel.

33 ~~SEC. 78.~~

34 *SEC. 71.* Section 7139.2 of the Business and Professions Code
35 is amended to read:

36 7139.2. (a) There is hereby created the Construction
37 Management Education Account (CMEA) as a separate account
38 in the Contractors License Fund for the purposes of construction
39 management education. Funds in the account shall be available

1 for the purposes of this article upon appropriation by the
2 Legislature.

3 (b) The Contractors State License Board shall allow a contractor
4 to make a contribution to the Construction Management Education
5 Account at the time of the contractor license fee payment. The
6 license fee form shall clearly display this alternative on its face
7 and shall clearly inform the licensee that this provision is a
8 contribution to the Construction Management Education Account
9 and is in addition to the fees.

10 (c) The board may accept grants from federal, state, or local
11 public agencies, or from private foundations or individuals, in
12 order to assist it in carrying out its duties, functions, and powers
13 under this article. Grant moneys shall be deposited into the
14 Construction Management Education Account.

15 ~~SEC. 79.~~

16 *SEC. 72.* Section 7139.5 of the Business and Professions Code
17 is amended to read:

18 7139.5. Grants shall be made pursuant to this article to public
19 postsecondary educational institutions that meet the qualifications
20 specified in Section 7139.4 in the following amounts:

21 (a) Three thousand dollars (\$3,000) per graduate during the past
22 academic year for institutions qualifying under subdivision (a) of
23 Section 7139.4.

24 (b) Three thousand dollars (\$3,000) per graduate during the past
25 academic year for institutions qualifying under subdivision (b) of
26 Section 7139.4.

27 (c) Three thousand dollars (\$3,000) per graduate placed with
28 California licensed contractors during the past academic year for
29 institutions qualifying under subdivision (c) of Section 7139.4.
30 These funds shall be used for the purpose of becoming accredited
31 by the American Council for Construction Education and shall be
32 available for up to three years. The board may continue to provide
33 this grant to an institution that in its judgment is meeting the intent
34 of this act and is continuing its development towards accreditation.

35 (d) Institutions qualifying under subdivision (d) of Section
36 7139.4 may receive a grant in an amount up to twenty-five
37 thousand dollars (\$25,000) per year for up to two years. Thereafter,
38 these institutions may receive grants based upon the criteria
39 described in subdivisions (a) to (c), inclusive. The board may
40 continue to award a grant to an institution that in its judgment is

1 meeting the intent of this article and is continuing its development
2 towards accreditation.

3 ~~SEC. 80.~~

4 *SEC. 73.* Section 7139.8 of the Business and Professions Code
5 is amended to read:

6 7139.8. The president of each public postsecondary educational
7 institution receiving a grant under this article shall submit, with
8 its respective request for a grant each year following the initial
9 year for which grants are issued, a report to the board delineating
10 the amount of the past grant awarded from the Construction
11 Management Education Account to that institution and the
12 utilization of those funds. The report shall include, but not be
13 limited to, the following:

14 (a) The number of graduates placed with California licensed
15 contractors during the previous academic year.

16 (b) The expected enrollment in construction management
17 courses in the upcoming academic year.

18 (c) Continuing education and extension courses offered during
19 the previous academic year, and their enrollments.

20 ~~SEC. 81.~~

21 *SEC. 74.* Section 7139.10 of the Business and Professions Code
22 is amended to read:

23 7139.10. It is the intent of the Legislature that state funding
24 for the grants authorized to be awarded under this section be
25 provided only from the Contractors License Fund to the extent
26 that funds are available in that fund and that no other state funding
27 be provided for those grants.

28 ~~SEC. 82.~~

29 *SEC. 75.* Section 7145 of the Business and Professions Code
30 is amended to read:

31 7145. The registrar may refuse to renew a license for the failure
32 or refusal by the licensee to complete the renewal application
33 prescribed by the registrar. If a licensee fails to return an
34 application for renewal that was rejected for insufficiency or
35 incompleteness within 90 days from the original date of rejection,
36 the application and fee shall be deemed abandoned. Any application
37 abandoned may not be reinstated. However, the applicant may file
38 another application accompanied by the required fee.

39 The registrar may review and accept the petition of a licensee
40 who disputes the invalidation of his or her application for renewal

1 upon a showing of good cause. This petition shall be received
2 within 90 days from the date the renewal application is deemed
3 abandoned.

4 ~~SEC. 83.~~

5 *SEC. 76.* Section 7145.5 of the Business and Professions Code
6 is amended to read:

7 7145.5. (a) The registrar may refuse to issue, reinstate,
8 reactivate, or renew a license or may suspend a license for the
9 failure of a licensee to resolve all outstanding final liabilities, which
10 include taxes, additions to tax, penalties, interest, and any fees that
11 may be assessed by the board, the Department of Industrial
12 Relations, the Employment Development Department, or the
13 Franchise Tax Board.

14 (1) Until the debts covered by this section are satisfied, the
15 qualifying person and any other personnel of record named on a
16 license that has been suspended under this section shall be
17 prohibited from serving in any capacity that is subject to licensure
18 under this chapter, but shall be permitted to act in the capacity of
19 a nonsupervising bona fide employee.

20 (2) The license of any other renewable licensed entity with any
21 of the same personnel of record that have been assessed an
22 outstanding liability covered by this section shall be suspended
23 until the debt has been satisfied or until the same personnel of
24 record disassociate themselves from the renewable licensed entity.

25 (b) The refusal to issue a license or the suspension of a license
26 as provided by this section shall be applicable only if the registrar
27 has mailed a notice preliminary to the refusal or suspension that
28 indicates that the license will be refused or suspended by a date
29 certain. This preliminary notice shall be mailed to the licensee at
30 least 60 days before the date certain.

31 (c) In the case of outstanding final liabilities assessed by the
32 Franchise Tax Board, this section shall be operative within 60 days
33 after the Contractors State License Board has provided the
34 Franchise Tax Board with the information required under Section
35 30, relating to licensing information that includes the federal
36 employee identification number or social security number.

37 (d) All versions of the application for contractors' licenses shall
38 include, as part of the application, an authorization by the applicant,
39 in the form and manner mutually agreeable to the Franchise Tax
40 Board and the board, for the Franchise Tax Board to disclose the

1 tax information that is required for the registrar to administer this
2 section. The Franchise Tax Board may from time to time audit
3 these authorizations.

4 ~~SEC. 84.~~

5 *SEC. 77.* Section 7151 of the Business and Professions Code
6 is amended to read:

7 7151. “Home improvement” means the repairing, remodeling,
8 altering, converting, or modernizing of, or adding to, residential
9 property and shall include, but not be limited to, the construction,
10 erection, replacement, or improvement of driveways, swimming
11 pools, including spas and hot tubs, terraces, patios, awnings, storm
12 windows, landscaping, fences, porches, garages, fallout shelters,
13 basements, and other improvements of the structures or land that
14 is adjacent to a dwelling house. “Home improvement” shall also
15 mean the installation of home improvement goods or the furnishing
16 of home improvement services.

17 For purposes of this chapter, “home improvement goods or
18 services” means goods and services, as defined in Section 1689.5
19 of the Civil Code, which are bought in connection with the
20 improvement of real property. Such home improvement goods and
21 services include, but are not limited to, carpeting, texture coating,
22 fencing, air conditioning or heating equipment, and termite
23 extermination. Home improvement goods include goods that are
24 to be so affixed to real property as to become a part of real property
25 whether or not severable therefrom.

26 ~~SEC. 85.~~

27 *SEC. 78.* Section 7155 of the Business and Professions Code
28 is amended to read:

29 7155. Violation of any provision of this chapter by a home
30 improvement salesman constitutes cause for disciplinary action.
31 The registrar may suspend or revoke the registration of the home
32 improvement salesman if he or she is found to be in violation. The
33 disciplinary proceedings shall be conducted in accordance with
34 the provisions of Chapter 5 (commencing with Section 11500) of
35 Part 1 of Division 3 of Title 2 of the Government Code.

36 ~~SEC. 86.~~

37 *SEC. 79.* Section 7159 of the Business and Professions Code
38 is amended to read:

39 7159. (a) (1) This section identifies the projects for which a
40 home improvement contract is required, outlines the contract

1 requirements, and lists the items that shall be included in the
2 contract, or may be provided as an attachment.

3 (2) This section does not apply to service and repair contracts
4 that are subject to Section 7159.10, if the contract for the applicable
5 services complies with Sections 7159.10 to 7159.14, inclusive.

6 (3) This section does not apply to the sale, installation, and
7 servicing of a fire alarm sold in conjunction with an alarm system,
8 as defined in subdivision (n) of Section 7590.1, if all costs
9 attributable to making the fire alarm system operable, including
10 sale and installation costs, do not exceed five hundred dollars
11 (\$500), and the licensee complies with the requirements set forth
12 in Section 7159.9.

13 (4) This section does not apply to any costs associated with
14 monitoring a burglar or fire alarm system.

15 (5) Failure by the licensee, his or her agent or salesperson, or
16 by a person subject to be licensed under this chapter, to provide
17 the specified information, notices, and disclosures in the contract,
18 or to otherwise fail to comply with any provision of this section,
19 is cause for discipline.

20 (b) For purposes of this section, “home improvement contract”
21 means an agreement, whether oral or written, or contained in one
22 or more documents, between a contractor and an owner or between
23 a contractor and a tenant, regardless of the number of residence
24 or dwelling units contained in the building in which the tenant
25 resides, if the work is to be performed in, to, or upon the residence
26 or dwelling unit of the tenant, for the performance of a home
27 improvement, as defined in Section 7151, and includes all labor,
28 services, and materials to be furnished and performed thereunder,
29 if the aggregate contract price specified in one or more
30 improvement contracts, including all labor, services, and materials
31 to be furnished by the contractor, exceeds five hundred dollars
32 (\$500). “Home improvement contract” also means an agreement,
33 whether oral or written, or contained in one or more documents,
34 between a salesperson, whether or not he or she is a home
35 improvement salesperson, and an owner or a tenant, regardless of
36 the number of residence or dwelling units contained in the building
37 in which the tenant resides, which provides for the sale, installation,
38 or furnishing of home improvement goods or services.

39 (c) In addition to the specific requirements listed under this
40 section, every home improvement contract and any person subject

1 to licensure under this chapter or his or her agent or salesperson
2 shall comply with all of the following:

3 (1) The writing shall be legible.

4 (2) Any printed form shall be readable. Unless a larger typeface
5 is specified in this article, text in any printed form shall be in at
6 least 10-point typeface and the headings shall be in at least 10-point
7 boldface type.

8 (3) (A) Before any work is started, the contractor shall give the
9 buyer a copy of the contract signed and dated by both the contractor
10 and the buyer. The buyer's receipt of the copy of the contract
11 initiates the buyer's rights to cancel the contract pursuant to
12 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

13 (B) The contract shall contain on the first page, in a typeface
14 no smaller than that generally used in the body of the document,
15 both of the following:

16 (i) The date the buyer signed the contract.

17 (ii) The name and address of the contractor to which the
18 applicable "Notice of Cancellation" is to be mailed, immediately
19 preceded by a statement advising the buyer that the "Notice of
20 Cancellation" may be sent to the contractor at the address noted
21 on the contract.

22 (4) The contract shall include a statement that, upon satisfactory
23 payment being made for any portion of the work performed, the
24 contractor, prior to any further payment being made, shall furnish
25 to the person contracting for the home improvement or swimming
26 pool work a full and unconditional release from any potential lien
27 claimant claim or mechanic's lien authorized pursuant to Section
28 3110 of the Civil Code for that portion of the work for which
29 payment has been made.

30 (5) A change-order form for changes or extra work shall be
31 incorporated into the contract and shall become part of the contract
32 only if it is in writing and signed by the parties prior to the
33 commencement of any work covered by a change order.

34 (6) The contract shall contain, in close proximity to the
35 signatures of the owner and contractor, a notice stating that the
36 owner or tenant has the right to require the contractor to have a
37 performance and payment bond.

38 (7) If the contract provides for a contractor to furnish joint
39 control, the contractor shall not have any financial or other interest
40 in the joint control.

1 (8) The provisions of this section are not exclusive and do not
2 relieve the contractor from compliance with any other applicable
3 provision of law.

4 (d) A home improvement contract and any changes to the
5 contract shall be in writing and signed by the parties to the contract
6 prior to the commencement of work covered by the contract or an
7 applicable change order and, except as provided in paragraph (8)
8 of subdivision (a) of Section 7159.5, shall include or comply with
9 all of the following:

10 (1) The name, business address, and license number of the
11 contractor.

12 (2) If applicable, the name and registration number of the home
13 improvement salesperson that solicited or negotiated the contract.

14 (3) The following heading on the contract form that identifies
15 the type of contract in at least 10-point boldface type: "Home
16 Improvement."

17 (4) The following statement in at least 12-point boldface type:
18 "You are entitled to a completely filled in copy of this agreement,
19 signed by both you and the contractor, before any work may be
20 started."

21 (5) The heading: "Contract Price," followed by the amount of
22 the contract in dollars and cents.

23 (6) If a finance charge will be charged, the heading: "Finance
24 Charge," followed by the amount in dollars and cents. The finance
25 charge is to be set out separately from the contract amount.

26 (7) The heading: "Description of the Project and Description
27 of the Significant Materials to be Used and Equipment to be
28 Installed," followed by a description of the project and a description
29 of the significant materials to be used and equipment to be installed.
30 For swimming pools, the project description required under this
31 paragraph also shall include a plan and scale drawing showing the
32 shape, size, dimensions, and the construction and equipment
33 specifications.

34 (8) If a downpayment will be charged, the details of the
35 downpayment shall be expressed in substantially the following
36 form, and shall include the text of the notice as specified in
37 subparagraph (C):

38 (A) The heading: "Downpayment."

39 (B) A space where the actual downpayment appears.

40 (C) The following statement in at least 12-point boldface type:

1
2 “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10
3 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS
4 LESS.”

5
6 (9) If payments, other than the downpayment, are to be made
7 before the project is completed, the details of these payments,
8 known as progress payments, shall be expressed in substantially
9 the following form, and shall include the text of the statement as
10 specified in subparagraph (C):

11 (A) A schedule of progress payments shall be preceded by the
12 heading: “Schedule of Progress Payments.”

13 (B) Each progress payment shall be stated in dollars and cents
14 and specifically reference the amount of work or services to be
15 performed and materials and equipment to be supplied.

16 (C) The section of the contract reserved for the progress
17 payments shall include the following statement in at least 12-point
18 boldface type:

19
20 “The schedule of progress payments must specifically describe
21 each phase of work, including the type and amount of work or
22 services scheduled to be supplied in each phase, along with the
23 amount of each proposed progress payment. IT IS AGAINST THE
24 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR
25 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT
26 YET DELIVERED. HOWEVER, A CONTRACTOR MAY
27 REQUIRE A DOWNPAYMENT.”

28
29 (10) The contract shall address the commencement of work to
30 be performed in substantially the following form:

31 (A) A statement that describes what constitutes substantial
32 commencement of work under the contract.

33 (B) The heading: “Approximate Start Date.”

34 (C) The approximate date on which work will be commenced.

35 (11) The estimated completion date of the work shall be
36 referenced in the contract in substantially the following form:

37 (A) The heading: “Approximate Completion Date.”

38 (B) The approximate date of completion.

1 (12) If applicable, the heading: “List of Documents to be
2 Incorporated into the Contract,” followed by the list of documents
3 incorporated into the contract.

4 (13) The heading: “Note about Extra Work and Change Orders,”
5 followed by the following statement:
6

7 “Extra Work and Change Orders become part of the contract
8 once the order is prepared in writing and signed by the parties prior
9 to the commencement of work covered by the new change order.
10 The order must describe the scope of the extra work or change,
11 the cost to be added or subtracted from the contract, and the effect
12 the order will have on the schedule of progress payments.”
13

14 (e) Except as provided in paragraph (8) of subdivision (a) of
15 Section 7159.5, all of the following notices shall be provided to
16 the owner as part of the contract form as specified or, if otherwise
17 authorized under this subdivision, may be provided as an
18 attachment to the contract:

19 (1) A notice concerning commercial general liability insurance.
20 This notice may be provided as an attachment to the contract if
21 the contract includes the following statement: “A notice concerning
22 commercial general liability insurance is attached to this contract.”
23 The notice shall include the heading “Commercial General Liability
24 Insurance (CGL),” followed by whichever of the following
25 statements is both relevant and correct:

26 (A) “(The name on the license or ‘This contractor’) does not
27 carry commercial general liability insurance.”

28 (B) “(The name on the license or ‘This contractor’) carries
29 commercial general liability insurance written by (the insurance
30 company). You may call (the insurance company) at _____
31 to check the contractor’s insurance coverage.”

32 (C) “(The name on the license or ‘This contractor’) is
33 self-insured.”

34 (2) A notice concerning workers’ compensation insurance. This
35 notice may be provided as an attachment to the contract if the
36 contract includes the statement: “A notice concerning workers’
37 compensation insurance is attached to this contract.” The notice
38 shall include the heading “Workers’ Compensation Insurance”
39 followed by whichever of the following statements is correct:

1 (A) “(The name on the license or ‘This contractor’) has no
2 employees and is exempt from workers’ compensation
3 requirements.”

4 (B) “(The name on the license or ‘This contractor’) carries
5 workers’ compensation insurance for all employees.”

6 (3) A notice that provides the buyer with the following
7 information about the performance of extra or change-order work:

8 (A) A statement that the buyer may not require a contractor to
9 perform extra or change-order work without providing written
10 authorization prior to the commencement of work covered by the
11 new change order.

12 (B) A statement informing the buyer that extra work or a change
13 order is not enforceable against a buyer unless the change order
14 also identifies all of the following in writing prior to the
15 commencement of work covered by the new change order:

16 (i) The scope of work encompassed by the order.

17 (ii) The amount to be added or subtracted from the contract.

18 (iii) The effect the order will make in the progress payments or
19 the completion date.

20 (C) A statement informing the buyer that the contractor’s failure
21 to comply with the requirements of this paragraph does not
22 preclude the recovery of compensation for work performed based
23 upon legal or equitable remedies designed to prevent unjust
24 enrichment.

25 (4) A notice with the heading “Mechanics’ Lien Warning”
26 written as follows:

27
28 “MECHANICS’ LIEN WARNING:
29

30 Anyone who helps improve your property, but who is not paid,
31 may record what is called a mechanics’ lien on your property. A
32 mechanics’ lien is a claim, like a mortgage or home equity loan,
33 made against your property and recorded with the county recorder.

34 Even if you pay your contractor in full, unpaid subcontractors,
35 suppliers, and laborers who helped to improve your property may
36 record mechanics’ liens and sue you in court to foreclose the lien.
37 If a court finds the lien is valid, you could be forced to pay twice
38 or have a court officer sell your home to pay the lien. Liens can
39 also affect your credit.

1 To preserve their right to record a lien, each subcontractor and
2 material supplier must provide you with a document called a
3 '20-day Preliminary Notice.' This notice is not a lien. The purpose
4 of the notice is to let you know that the person who sends you the
5 notice has the right to record a lien on your property if he or she
6 is not paid.

7 BE CAREFUL. The Preliminary Notice can be sent up to 20
8 days after the subcontractor starts work or the supplier provides
9 material. This can be a big problem if you pay your contractor
10 before you have received the Preliminary Notices.

11 You will not get Preliminary Notices from your prime contractor
12 or from laborers who work on your project. The law assumes that
13 you already know they are improving your property.

14 PROTECT YOURSELF FROM LIENS. You can protect
15 yourself from liens by getting a list from your contractor of all the
16 subcontractors and material suppliers that work on your project.
17 Find out from your contractor when these subcontractors started
18 work and when these suppliers delivered goods or materials. Then
19 wait 20 days, paying attention to the Preliminary Notices you
20 receive.

21 PAY WITH JOINT CHECKS. One way to protect yourself is
22 to pay with a joint check. When your contractor tells you it is time
23 to pay for the work of a subcontractor or supplier who has provided
24 you with a Preliminary Notice, write a joint check payable to both
25 the contractor and the subcontractor or material supplier.

26 For other ways to prevent liens, visit CSLB's Internet Web site
27 at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

28 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING
29 A LIEN PLACED ON YOUR HOME. This can mean that you
30 may have to pay twice, or face the forced sale of your home to pay
31 what you owe."

32
33 (5) The following notice shall be provided in at least 12-point
34 typeface:

35
36 "Information about the Contractors State License Board (CSLB):
37 CSLB is the state consumer protection agency that licenses and
38 regulates construction contractors.

39 Contact CSLB for information about the licensed contractor you
40 are considering, including information about disclosable

1 complaints, disciplinary actions, and civil judgments that are
2 reported to CSLB.

3 Use only licensed contractors. If you file a complaint against a
4 licensed contractor within the legal deadline (usually four years),
5 CSLB has authority to investigate the complaint. If you use an
6 unlicensed contractor, CSLB may not be able to help you resolve
7 your complaint. Your only remedy may be in civil court, and you
8 may be liable for damages arising out of any injuries to the
9 unlicensed contractor or the unlicensed contractor's employees.

10 For more information:

11 Visit CSLB's Internet Web site at www.cslb.ca.gov

12 Call CSLB at 800-321-CSLB (2752)

13 Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

14
15 (6) (A) The notice set forth in subparagraph (B) and entitled
16 "Three-Day Right to Cancel," shall be provided to the buyer unless
17 the contract is:

18 (i) Negotiated at the contractor's place of business.

19 (ii) Subject to the "Seven-Day Right to Cancel," as set forth in
20 paragraph (7).

21 (iii) Subject to licensure under the Alarm Company Act (Chapter
22 11.6 (commencing with Section 7590)), provided the alarm
23 company licensee complies with Sections 1689.5, 1689.6, and
24 1689.7 of the Civil Code, as applicable.

25 (B) "Three-Day Right to Cancel

26 You, the buyer, have the right to cancel this contract within three
27 business days. You may cancel by e-mailing, mailing, faxing, or
28 delivering a written notice to the contractor at the contractor's
29 place of business by midnight of the third business day after you
30 received a signed and dated copy of the contract that includes this
31 notice. Include your name, your address, and the date you received
32 the signed copy of the contract and this notice.

33 If you cancel, the contractor must return to you anything you
34 paid within 10 days of receiving the notice of cancellation. For
35 your part, you must make available to the contractor at your
36 residence, in substantially as good condition as you received them,
37 goods delivered to you under this contract or sale. Or, you may,
38 if you wish, comply with the contractor's instructions on how to
39 return the goods at the contractor's expense and risk. If you do
40 make the goods available to the contractor and the contractor does

1 not pick them up within 20 days of the date of your notice of
2 cancellation, you may keep them without any further obligation.
3 If you fail to make the goods available to the contractor, or if you
4 agree to return the goods to the contractor and fail to do so, then
5 you remain liable for performance of all obligations under the
6 contract.”

7 (C) The “Three-Day Right to Cancel” notice required by this
8 paragraph shall comply with all of the following:

9 (i) The text of the notice is at least 12-point boldface type.

10 (ii) The notice is in immediate proximity to a space reserved
11 for the owner’s signature.

12 (iii) The owner acknowledges receipt of the notice by signing
13 and dating the notice form in the signature space.

14 (iv) The notice is written in the same language, e.g., Spanish,
15 as that principally used in any oral sales presentation.

16 (v) The notice may be attached to the contract if the contract
17 includes, in at least 12-point boldface type, a checkbox with the
18 following statement: “The law requires that the contractor give
19 you a notice explaining your right to cancel. Initial the checkbox
20 if the contractor has given you a ‘Notice of the Three-Day Right
21 to Cancel.’ ”

22 (vi) The notice shall be accompanied by a completed form in
23 duplicate, captioned “Notice of Cancellation,” which also shall be
24 attached to the agreement or offer to purchase and be easily
25 detachable, and which shall contain the following statement written
26 in the same language, e.g., Spanish, as used in the contract:

27
28 “Notice of Cancellation”

29 /enter date of transaction/
30

31 _____
(Date)
32
33

34 “You may cancel this transaction, without any penalty or
35 obligation, within three business days from the above date.

36 If you cancel, any property traded in, any payments made by
37 you under the contract or sale, and any negotiable instrument
38 executed by you will be returned within 10 days following receipt
39 by the seller of your cancellation notice, and any security interest
40 arising out of the transaction will be canceled.

1 If you cancel, you must make available to the seller at your
2 residence, in substantially as good condition as when received,
3 any goods delivered to you under this contract or sale, or you may,
4 if you wish, comply with the instructions of the seller regarding
5 the return shipment of the goods at the seller's expense and risk.

6 If you do make the goods available to the seller and the seller
7 does not pick them up within 20 days of the date of your notice of
8 cancellation, you may retain or dispose of the goods without any
9 further obligation. If you fail to make the goods available to the
10 seller, or if you agree to return the goods to the seller and fail to
11 do so, then you remain liable for performance of all obligations
12 under the contract.”

13
14
15 To cancel this transaction, mail or deliver a signed and dated copy of this
16 cancellation notice, or any other written notice, or send a telegram
17 to _____,

18 /name of seller/

19 at _____
20 /address of seller's place of business/

21 not later than midnight of _____.
22 (Date)

23 I hereby cancel this transaction. _____
24 (Date)

25 _____
26 (Buyer's signature)
27

28 (7) (A) The following notice entitled “Seven-Day Right to
29 Cancel” shall be provided to the buyer for any contract that is
30 written for the repair or restoration of residential premises damaged
31 by any sudden or catastrophic event for which a state of emergency
32 has been declared by the President of the United States or the
33 Governor, or for which a local emergency has been declared by
34 the executive officer or governing body of any city, county, or city
35 and county:

36 “Seven-Day Right to Cancel

37 You, the buyer, have the right to cancel this contract within seven
38 business days. You may cancel by e-mailing, mailing, faxing, or
39 delivering a written notice to the contractor at the contractor's
40 place of business by midnight of the seventh business day after

1 you received a signed and dated copy of the contract that includes
2 this notice. Include your name, your address, and the date you
3 received the signed copy of the contract and this notice.

4 If you cancel, the contractor must return to you anything you
5 paid within 10 days of receiving the notice of cancellation. For
6 your part, you must make available to the contractor at your
7 residence, in substantially as good condition as you received them,
8 goods delivered to you under this contract or sale. Or, you may,
9 if you wish, comply with the contractor's instructions on how to
10 return the goods at the contractor's expense and risk. If you do
11 make the goods available to the contractor and the contractor does
12 not pick them up within 20 days of the date of your notice of
13 cancellation, you may keep them without any further obligation.
14 If you fail to make the goods available to the contractor, or if you
15 agree to return the goods to the contractor and fail to do so, then
16 you remain liable for performance of all obligations under the
17 contract."

18 (B) The "Seven-Day Right to Cancel" notice required by this
19 subdivision shall comply with all of the following:

20 (i) The text of the notice is at least 12-point boldface type.

21 (ii) The notice is in immediate proximity to a space reserved
22 for the owner's signature.

23 (iii) The owner acknowledges receipt of the notice by signing
24 and dating the notice form in the signature space.

25 (iv) The notice is written in the same language, e.g., Spanish,
26 as that principally used in any oral sales presentation.

27 (v) The notice may be attached to the contract if the contract
28 includes, in at least 12-point boldface type, a checkbox with the
29 following statement: "The law requires that the contractor give
30 you a notice explaining your right to cancel. Initial the checkbox
31 if the contractor has given you a 'Notice of the Seven-Day Right
32 to Cancel.'"

33 (vi) The notice shall be accompanied by a completed form in
34 duplicate, captioned "Notice of Cancellation," which shall also be
35 attached to the agreement or offer to purchase and be easily
36 detachable, and which shall contain the following statement written
37 in the same language, e.g., Spanish, as used in the contract:

38
39 "Notice of Cancellation"

40 /enter date of transaction/

1 _____
2 (Date)

3
4
5 “You may cancel this transaction, without any penalty or
6 obligation, within seven business days from the above date.

7 If you cancel, any property traded in, any payments made by
8 you under the contract or sale, and any negotiable instrument
9 executed by you will be returned within 10 days following receipt
10 by the seller of your cancellation notice, and any security interest
11 arising out of the transaction will be canceled.

12 If you cancel, you must make available to the seller at your
13 residence, in substantially as good condition as when received,
14 any goods delivered to you under this contract or sale, or you may,
15 if you wish, comply with the instructions of the seller regarding
16 the return shipment of the goods at the seller’s expense and risk.

17 If you do make the goods available to the seller and the seller
18 does not pick them up within 20 days of the date of your notice of
19 cancellation, you may retain or dispose of the goods without any
20 further obligation. If you fail to make the goods available to the
21 seller, or if you agree to return the goods to the seller and fail to
22 do so, then you remain liable for performance of all obligations
23 under the contract.”

24
25
26 To cancel this transaction, mail or deliver a signed and dated copy of this
27 cancellation notice, or any other written notice, or send a telegram
28 to _____,

29 /name of seller/

30 at _____
31 /address of seller’s place of business/

32 not later than midnight of _____.
33 (Date)

34 I hereby cancel this transaction. _____
35 (Date)

36 _____
37 (Buyer’s signature)
38

1 ~~SEC. 87.~~

2 *SEC. 80.* Section 8516 of the Business and Professions Code
3 is amended to read:

4 8516. (a) This section, and Section 8519, apply only to wood
5 destroying pests or organisms.

6 (b) No registered company or licensee shall commence work
7 on a contract, or sign, issue, or deliver any documents expressing
8 an opinion or statement relating to the absence or presence of wood
9 destroying pests or organisms until an inspection has been made
10 by a licensed Branch 3 field representative or operator. The address
11 of each property inspected or upon which work is completed shall
12 be reported on a form prescribed by the board and shall be filed
13 with the board no later than 10 business days after the
14 commencement of an inspection or upon completed work.

15 Every property inspected pursuant to this subdivision or Section
16 8518 shall be assessed a filing fee pursuant to Section 8674.

17 Failure of a registered company to report and file with the board
18 the address of any property inspected or work completed pursuant
19 to Section 8518 or this section is grounds for disciplinary action
20 and shall subject the registered company to a fine of not more than
21 two thousand five hundred dollars (\$2,500).

22 A written inspection report conforming to this section and a form
23 approved by the board shall be prepared and delivered to the person
24 requesting the inspection or to the person's designated agent within
25 10 business days of the inspection, except that an inspection report
26 prepared for use by an attorney for litigation purposes is not
27 required to be reported to the board. The report shall be delivered
28 before work is commenced on any property. The registered
29 company shall retain for three years all original inspection reports,
30 field notes, and activity forms.

31 Reports shall be made available for inspection and reproduction
32 to the executive officer of the board or his or her duly authorized
33 representative during business hours. Original inspection reports
34 or copies thereof shall be submitted to the board upon request
35 within two business days. The following shall be set forth in the
36 report:

37 (1) The date of the inspection and the name of the licensed field
38 representative or operator making the inspection.

39 (2) The name and address of the person or firm ordering the
40 report.

1 (3) The name and address of any person who is a party in
2 interest.

3 (4) The address or location of the property.

4 (5) A general description of the building or premises inspected.

5 (6) A foundation diagram or sketch of the structure or structures
6 or portions of the structure or structures inspected, indicating
7 thereon the approximate location of any infested or infected areas
8 evident, and the parts of the structure where conditions that would
9 ordinarily subject those parts to attack by wood destroying pests
10 or organisms exist.

11 (7) Information regarding the substructure, foundation walls
12 and footings, porches, patios and steps, air vents, abutments, attic
13 spaces, roof framing that includes the eaves, rafters, fascias,
14 exposed timbers, exposed sheathing, ceiling joists, and attic walls,
15 or other parts subject to attack by wood destroying pests or
16 organisms. Conditions usually deemed likely to lead to infestation
17 or infection, such as earth-wood contacts, excessive cellulose
18 debris, faulty grade levels, excessive moisture conditions, evidence
19 of roof leaks, and insufficient ventilation are to be reported.

20 (8) One of the following statements, as appropriate, printed in
21 bold type:

22 (A) The exterior surface of the roof was not inspected. If you
23 want the water tightness of the roof determined, you should contact
24 a roofing contractor who is licensed by the Contractors State
25 License Board.

26 (B) The exterior surface of the roof was inspected to determine
27 whether or not wood destroying pests or organisms are present.

28 (9) Indication or description of any areas that are inaccessible
29 or not inspected with recommendation for further inspection if
30 practicable. If, after the report has been made in compliance with
31 this section, authority is given later to open inaccessible areas, a
32 supplemental report on conditions in these areas shall be made.

33 (10) Recommendations for corrective measures.

34 (11) Information regarding the pesticide or pesticides to be used
35 for their control as set forth in subdivision (a) of Section 8538.

36 (12) The inspection report shall clearly disclose that if requested
37 by the person ordering the original report, a reinspection of the
38 structure will be performed if an estimate or bid for making repairs
39 was given with the original inspection report, or thereafter.

1 (13) The inspection report shall contain the following statement,
2 printed in boldface type:

3 “NOTICE: Reports on this structure prepared by various
4 registered companies should list the same findings (i.e. termite
5 infestations, termite damage, fungus damage, etc.). However,
6 recommendations to correct these findings may vary from company
7 to company. You have a right to seek a second opinion from
8 another company.”

9 An estimate or bid for repairs shall be given separately allocating
10 the costs to perform each and every recommendation for corrective
11 measures as specified in subdivision (c) with the original inspection
12 report if the person who ordered the original inspection report so
13 requests, and if the registered company is regularly in the business
14 of performing corrective measures.

15 If no estimate or bid was given with the original inspection
16 report, or thereafter, then the registered company shall not be
17 required to perform a reinspection.

18 A reinspection shall be an inspection of those items previously
19 listed on an original report to determine if the recommendations
20 have been completed. Each reinspection shall be reported on an
21 original inspection report form and shall be labeled “Reinspection”
22 in capital letters by rubber stamp or typewritten. Each reinspection
23 shall also identify the original report by date.

24 After four months from an original inspection, all inspections
25 shall be original inspections and not reinspections.

26 Any reinspection shall be performed for not more than the price
27 of the registered company’s original inspection price and shall be
28 completed within 10 working days after a reinspection has been
29 ordered.

30 (c) At the time a report is ordered, the registered company or
31 licensee shall inform the person or entity ordering the report, that
32 a separated report is available pursuant to this subdivision. If a
33 separated report is requested at the time the inspection report is
34 ordered, the registered company or licensee shall separately identify
35 on the report each recommendation for corrective measures as
36 follows:

37 (1) The infestation or infection that is evident.

38 (2) The conditions that are present that are deemed likely to
39 lead to infestation or infection.

1 If a registered company or licensee fails to inform as required
2 by this subdivision and a dispute arises, or if any other dispute
3 arises as to whether this subdivision has been complied with, a
4 separated report shall be provided within 24 hours of the request
5 but, in no event, later than the next business day, and at no
6 additional cost.

7 (d) When a corrective condition is identified, either as paragraph
8 (1) or (2) of subdivision (c), and the responsible party, as negotiated
9 between the buyer and the seller, chooses not to correct those
10 conditions, the registered company or licensee shall not be liable
11 for damages resulting from a failure to correct those conditions or
12 subject to any disciplinary action by the board. Nothing in this
13 subdivision, however, shall relieve a registered company or a
14 licensee of any liability resulting from negligence, fraud, dishonest
15 dealing, other violations pursuant to this chapter, or contractual
16 obligations between the registered company or licensee and the
17 responsible parties.

18 (e) The inspection report form prescribed by the board shall
19 separately identify the infestation or infection that is evident and
20 the conditions that are present that are deemed likely to lead to
21 infestation or infection. If a separated form is requested, the form
22 shall explain the infestation or infection that is evident and the
23 conditions that are present that are deemed likely to lead to
24 infestation or infection and the difference between those conditions.
25 In no event, however, shall conditions deemed likely to lead to
26 infestation or infection be characterized as actual “defects” or as
27 actual “active” infestations or infections or in need of correction
28 as a precondition to issuing a certification pursuant to Section
29 8519.

30 (f) The report and any contract entered into shall also state
31 specifically when any guarantee for the work is made, and if so,
32 the specific terms of the guarantee and the period of time for which
33 the guarantee shall be in effect.

34 (g) Control service is defined as the regular reinspection of a
35 property after a report has been made in compliance with this
36 section and any corrections as have been agreed upon have been
37 completed. Under a control service agreement a registered company
38 shall refer to the original report and contract in a manner as to
39 identify them clearly, and the report shall be assumed to be a true
40 report of conditions as originally issued, except it may be modified

1 after a control service inspection. A registered company is not
2 required to issue a report as outlined in paragraphs (1) to (11),
3 inclusive, of subdivision (b) after each control service inspection.
4 If after control service inspection, no modification of the original
5 report is made in writing, then it will be assumed that conditions
6 are as originally reported. A control service contract shall state
7 specifically the particular wood destroying pests or organisms and
8 the portions of the buildings or structures covered by the contract.

9 (h) A registered company or licensee may enter into and
10 maintain a control service agreement provided the following
11 requirements are met:

12 (1) The control service agreement shall be in writing, signed by
13 both parties, and shall specifically include the following:

14 (A) The wood destroying pests and organisms that could infest
15 and infect the structure.

16 (B) The wood destroying pests and organisms covered by the
17 control service agreement. Any wood destroying pest or organism
18 that is not covered must be specifically listed.

19 (C) The type and manner of treatment to be used to correct the
20 infestations or infections.

21 (D) The structures or buildings, or portions thereof, covered by
22 the agreement, including a statement specifying whether the
23 coverage for purposes of periodic inspections is limited or full.
24 Any exclusions from those described in the original report must
25 be specifically listed.

26 (E) A reference to the original inspection report and agreement.

27 (F) The frequency of the inspections to be provided, the fee to
28 be charged for each renewal, and the duration of the agreement.

29 (G) Whether the fee includes structural repairs.

30 (H) If the services provided are guaranteed, and, if so, the terms
31 of the guarantee.

32 (I) A statement that all corrections of infestations or infections
33 covered by the control service agreement shall be completed within
34 six months of discovery, unless otherwise agreed to in writing by
35 both parties.

36 (2) Inspections made pursuant to a control service agreement
37 shall be conducted by a Branch 3 licensee. Section 8506.1 does
38 not modify this provision.

39 (3) A full inspection of the property covered by the control
40 service agreement shall be conducted and a report filed pursuant

1 to subdivision (b) at least once every three years from the date that
2 the agreement was entered into, unless the consumer cancels the
3 contract within three years from the date the agreement was entered
4 into.

5 (4) A written report shall be required for the correction of any
6 infestation or infection unless all of the following conditions are
7 met:

8 (A) The infestation or infection has been previously reported.

9 (B) The infestation or infection is covered by the control service
10 agreement.

11 (C) There is no additional charge for correcting the infestation
12 or infection.

13 (D) Correction of the infestation or infection takes place within
14 45 days of its discovery.

15 (E) Correction of the infestation or infection does not include
16 fumigation.

17 (5) All notice requirements pursuant to Section 8538 shall apply
18 to all pesticide treatments conducted under control service
19 agreements.

20 (6) For purposes of this section, “control service agreement”
21 means any agreement, including extended warranties, to have a
22 licensee conduct over a period of time regular inspections and
23 other activities related to the control or eradication of wood
24 destroying pests and organisms.

25 (i) All work recommended by a registered company, where an
26 estimate or bid for making repairs was given with the original
27 inspection report, or thereafter, shall be recorded on this report or
28 a separate work agreement and shall specify a price for each
29 recommendation. This information shall be provided to the person
30 requesting the inspection, and shall be retained by the registered
31 company with the inspection report copy for three years.

32 ~~SEC. 88.~~

33 *SEC. 81.* Section 16000 of the Business and Professions Code
34 is amended to read:

35 16000. (a) The legislative body of an incorporated city may,
36 in the exercise of its police power, and for the purpose of
37 regulation, as herein provided, and not otherwise, license any kind
38 of business not prohibited by law transacted and carried on within
39 the limits of its jurisdiction, including all shows, exhibitions and
40 lawful games, and may fix the rates of the license fee and provide

1 for its collection by suit or otherwise. Any legislative body,
2 including the legislative body of a charter city, that fixes the rate
3 of license fees pursuant to this subdivision upon a business
4 operating both within and outside the legislative body's taxing
5 jurisdiction, shall levy the license fee so that the measure of the
6 fee fairly reflects that proportion of the activity actually carried
7 on within the taxing jurisdiction.

8 (b) No license fee levied pursuant to subdivision (a) that is
9 measured by the licensee's income or gross receipts, whether levied
10 by a charter or general law city, shall apply to any nonprofit
11 organization that is exempted from taxes by Chapter 4
12 (commencing with Section 23701) of Part 11 of Division 2 of the
13 Revenue and Taxation Code or Subchapter F (commencing with
14 Section 501) of Chapter 1 of Subtitle A of the Internal Revenue
15 Code of 1986, or the successor of either, or to any minister,
16 clergyman, Christian Science practitioner, rabbi, or priest of any
17 religious organization that has been granted an exemption from
18 federal income tax by the United States Commissioner of Internal
19 Revenue as an organization described in Section 501(c)(3) of the
20 Internal Revenue Code or a successor to that section.

21 (c) Before a city, including a charter city, issues a business
22 license to a person to conduct business as a contractor, as defined
23 in Section 7026, the city shall verify that the person is licensed by
24 the Contractors State License Board.

25 ~~SEC. 89.~~

26 *SEC. 82.* Section 16100 of the Business and Professions Code
27 is amended to read:

28 16100. (a) The board of supervisors may in the exercise of its
29 police powers, and for the purpose of regulation, as herein
30 provided, and not otherwise, license any kind of business not
31 prohibited by law, transacted and carried on within the limits of
32 its jurisdiction, including all shows, exhibitions, and lawful games,
33 and may fix the rate of the license fee and provide for its collection
34 by suit or otherwise.

35 (b) No license fee levied pursuant to subdivision (a) that is
36 measured by the licensee's income or gross receipts, whether levied
37 by a charter or general law county, shall apply to any nonprofit
38 organization that is exempted from taxes by Chapter 4
39 (commencing with Section 23701) of Part 11 of Division 2 of the
40 Revenue and Taxation Code or Subchapter F (commencing with

1 Section 501) of Chapter 1 of Subtitle A of the Internal Revenue
2 Code of 1986, or the successor of either, or to any minister,
3 clergyman, Christian Science practitioner, rabbi, or priest of any
4 religious organization that has been granted an exemption from
5 federal income tax by the United States Commissioner of Internal
6 Revenue as an organization described in Section 501(c)(3) of the
7 Internal Revenue Code or a successor to that section.

8 (c) Before a county issues a business license to a person to
9 conduct business as a contractor, as defined by Section 7026, the
10 county shall verify that the person is licensed by the Contractors
11 State License Board.

12 ~~SEC. 90.~~

13 *SEC. 83.* Section 19164 of the Business and Professions Code
14 is amended to read:

15 19164. The bureau may, by regulation, establish insulation
16 material standards governing the quality of all insulation material
17 sold or installed within this state, including those properties that
18 affect the safety and thermal performance of insulation material
19 during application and in the use intended. The standards shall
20 specify the initial performance of the insulation material and the
21 performance expected during the design life of the insulation
22 material. Until the bureau has adopted these regulations, the
23 regulations of the Energy Resources Conservation and
24 Development Commission in effect on the effective date of this
25 section relating to those standards shall remain in full force and
26 effect. However, wherever those regulations specify that the
27 commission shall perform an act, the bureau instead shall perform
28 the act.

29 Prior to establishing the standards and procedures required by
30 this chapter, the bureau shall conduct at least two public hearings,
31 and shall invite the Energy Resources Conservation and
32 Development Commission, the State Fire Marshal, manufacturers,
33 distributors, and licensed installers of insulation materials, and
34 appropriate members of the public to participate in the hearings.
35 Immediately upon adoption of the standards and procedures, the
36 bureau shall provide a copy of the standards to the Energy
37 Resources Conservation and Development Commission, and the
38 Contractors State License Board. Within 30 days after receipt of
39 the bureau's standards, the Contractors State License Board shall

1 notify all state licensed contractors who install insulation of the
2 standards.

3 Insulation standards adopted by the bureau, pursuant to this
4 section, and by the Energy Resources Conservation and
5 Development Commission, pursuant to Section 25402 of the Public
6 Resources Code, which are building standards as defined in Section
7 25488.5 shall be submitted to the State Building Standards
8 Commission for approval pursuant to, and are governed by, the
9 State Building Standards Law, Part 2.5 (commencing with Section
10 18901) of Division 13 of the Health and Safety Code. The building
11 standards adopted by the bureau and published in the State Building
12 Standards Code shall comply with, and be enforced as provided
13 in, this section.

14 ~~SEC. 91.~~

15 *SEC. 84.* Section 3084 of the Civil Code, as amended by
16 Section 1 of Chapter 109 of the Statutes of 2009, is amended to
17 read:

18 3084. (a) “Claim of lien” or “mechanic’s lien” means a written
19 statement, signed and verified by the claimant or by the claimant’s
20 agent, containing all of the following:

21 (1) A statement of the claimant’s demand after deducting all
22 just credits and offsets.

23 (2) The name of the owner or reputed owner, if known.

24 (3) A general statement of the kind of labor, services, equipment,
25 or materials furnished by the claimant.

26 (4) The name of the person by whom the claimant was employed
27 or to whom the claimant furnished the labor, services, equipment,
28 or materials.

29 (5) A description of the site sufficient for identification.

30 (6) A proof of service affidavit completed and signed by the
31 person serving the Notice of Mechanic’s Lien pursuant to
32 subdivision (c). A “proof of service affidavit” is an affidavit of the
33 person making the service, showing the date, place, and manner
34 of service and facts showing that the service was made in
35 accordance with this section. The affidavit shall show the name
36 and address of the person or persons upon whom a copy of the
37 mechanic’s lien and the Notice of Mechanic’s Lien was served,
38 and, if appropriate, the title or capacity in which he or she was
39 served.

(7) The following statement, printed in at least 10-point boldface type. The letters of the last sentence shall be printed in uppercase type, excepting the Internet Web site address of the Contractors' State License Board, which shall be printed in lowercase type:

NOTICE OF MECHANIC'S LIEN
ATTENTION!

Upon the recording of the enclosed MECHANIC'S LIEN with the county recorder's office of the county where the property is located, your property is subject to the filing of a legal action seeking a court-ordered foreclosure sale of the real property on which the lien has been recorded. That legal action must be filed with the court no later than 90 days after the date the mechanic's lien is recorded.

The party identified in the mechanic's lien may have provided labor or materials for improvements to your property and may not have been paid for these items. You are receiving this notice because it is a required step in filing a mechanic's lien foreclosure action against your property. The foreclosure action will seek a sale of your property in order to pay for unpaid labor, materials, or improvements provided to your property. This may affect your ability to borrow against, refinance, or sell the property until the mechanic's lien is released.

BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANIC'S LIENS GO TO THE CONTRACTORS STATE LICENSE BOARD INTERNET WEB SITE AT www.cslb.ca.gov.

(b) A mechanic's lien or claim of lien in otherwise proper form, verified and containing the information required by this section shall be accepted by the recorder for recording and shall be deemed duly recorded without acknowledgment.

(c) (1) The mechanic's lien and the Notice of Mechanic's Lien described in this section shall be served on the owner or reputed owner. Service shall be made as follows:

(A) For an owner or reputed owner to be notified who resides in or outside this state, by registered mail, certified mail, or

1 first-class mail, evidenced by a certificate of mailing, postage
2 prepaid, addressed to the owner or reputed owner at the owner's
3 or reputed owner's residence or place of business address or at the
4 address shown by the building permit on file with the authority
5 issuing a building permit for the work, or as otherwise provided
6 in subdivision (j) of Section 3097.

7 (B) If the owner or reputed owner cannot be served by this
8 method, then the notice may be given by registered mail, certified
9 mail, or first-class mail, evidenced by a certificate of mailing,
10 postage prepaid, addressed to the construction lender or to the
11 original contractor.

12 (2) Service by registered mail, certified mail, or first-class mail,
13 evidenced by a certificate of mailing, postage prepaid, is complete
14 at the time of the deposit of that first-class certified or registered
15 mail.

16 (d) Failure to serve the mechanic's lien, including the Notice
17 of Mechanic's Lien, as prescribed by this section, shall cause the
18 mechanic's lien to be unenforceable as a matter of law.

19 ~~SEC. 92.~~

20 *SEC. 85.* Section 116.220 of the Code of Civil Procedure is
21 amended to read:

22 116.220. (a) The small claims court has jurisdiction in the
23 following actions:

24 (1) Except as provided in subdivisions (c), (e), and (f), for
25 recovery of money, if the amount of the demand does not exceed
26 five thousand dollars (\$5,000).

27 (2) Except as provided in subdivisions (c), (e), and (f), to enforce
28 payment of delinquent unsecured personal property taxes in an
29 amount not to exceed five thousand dollars (\$5,000), if the legality
30 of the tax is not contested by the defendant.

31 (3) To issue the writ of possession authorized by Sections 1861.5
32 and 1861.10 of the Civil Code if the amount of the demand does
33 not exceed five thousand dollars (\$5,000).

34 (4) To confirm, correct, or vacate a fee arbitration award not
35 exceeding five thousand dollars (\$5,000) between an attorney and
36 client that is binding or has become binding, or to conduct a hearing
37 de novo between an attorney and client after nonbinding arbitration
38 of a fee dispute involving no more than five thousand dollars
39 (\$5,000) in controversy, pursuant to Article 13 (commencing with

1 Section 6200) of Chapter 4 of Division 3 of the Business and
2 Professions Code.

3 (5) For an injunction or other equitable relief only when a statute
4 expressly authorizes a small claims court to award that relief.

5 (b) In any action seeking relief authorized by paragraphs (1) to
6 (4), inclusive, of subdivision (a), the court may grant equitable
7 relief in the form of rescission, restitution, reformation, and specific
8 performance, in lieu of, or in addition to, money damages. The
9 court may issue a conditional judgment. The court shall retain
10 jurisdiction until full payment and performance of any judgment
11 or order.

12 (c) Notwithstanding subdivision (a), the small claims court has
13 jurisdiction over a defendant guarantor as follows:

14 (1) For any action brought by a natural person against the
15 Registrar of the Contractors State License Board as the defendant
16 guarantor, the small claims jurisdictional limit stated in Section
17 116.221 shall apply.

18 (2) For any action against a defendant guarantor that does not
19 charge a fee for its guarantor or surety services, if the amount of
20 the demand does not exceed two thousand five hundred dollars
21 (\$2,500).

22 (3) For any action brought by a natural person against a
23 defendant guarantor that charges a fee for its guarantor or surety
24 services, if the amount of the demand does not exceed six thousand
25 five hundred dollars (\$6,500).

26 (4) For any action brought by an entity other than a natural
27 person against a defendant guarantor that charges a fee for its
28 guarantor or surety services or against the Registrar of the
29 Contractors State License Board as the defendant guarantor, if the
30 amount of the demand does not exceed four thousand dollars
31 (\$4,000).

32 (d) In any case in which the lack of jurisdiction is due solely to
33 an excess in the amount of the demand, the excess may be waived,
34 but any waiver is not operative until judgment.

35 (e) Notwithstanding subdivision (a), in any action filed by a
36 plaintiff incarcerated in a Department of Corrections and
37 Rehabilitation facility, the small claims court has jurisdiction over
38 a defendant only if the plaintiff has alleged in the complaint that
39 he or she has exhausted his or her administrative remedies against
40 that department, including compliance with Sections 905.2 and

1 905.4 of the Government Code. The final administrative
2 adjudication or determination of the plaintiff's administrative claim
3 by the department may be attached to the complaint at the time of
4 filing in lieu of that allegation.

5 (f) In any action governed by subdivision (e), if the plaintiff
6 fails to provide proof of compliance with the requirements of
7 subdivision (e) at the time of trial, the judicial officer shall, at his
8 or her discretion, either dismiss the action or continue the action
9 to give the plaintiff an opportunity to provide that proof.

10 (g) For purposes of this section, "department" includes an
11 employee of a department against whom a claim has been filed
12 under this chapter arising out of his or her duties as an employee
13 of that department.

14 ~~SEC. 93.~~

15 *SEC. 86.* Section 17250.25 of the Education Code is amended
16 to read:

17 17250.25. Design-build projects shall progress as follows:

18 (a) (1) The school district governing board shall prepare a
19 request for proposal setting forth the scope of the project that may
20 include, but is not limited to, the size, type and desired design
21 character of the buildings and site, performance specifications
22 covering the quality of materials, equipment, and workmanship,
23 preliminary plans or building layouts, or any other information
24 deemed necessary to describe adequately the school district's
25 needs. The performance specifications and any plans shall be
26 prepared by a design professional duly licensed or registered in
27 this state.

28 (2) Each request for proposal shall do all of the following:

29 (A) Identify the basic scope and needs of the project or contract,
30 the expected cost range, and other information deemed necessary
31 by the school district to inform interested parties of the contracting
32 opportunity.

33 (B) Invite interested parties to submit competitive sealed
34 proposals in the manner prescribed by the school district.

35 (C) Include a section identifying and describing the following:

36 (i) All significant factors and subfactors that the school district
37 reasonably expects to consider in evaluating proposals, including
38 cost or price and all nonprice related factors and subfactors.

39 (ii) The methodology and rating or weighting scheme that will
40 be used by the school district governing board in evaluating

1 competitive proposals and specifically whether proposals will be
2 rated according to numeric or qualitative values.

3 (iii) The relative importance or weight assigned to each of the
4 factors identified in the request for proposal.

5 (iv) As an alternative to clause (iii), the governing board of a
6 school district shall specifically disclose whether all evaluation
7 factors other than cost or price, when combined, are any of the
8 following:

9 (I) Significantly more important than cost or price.

10 (II) Approximately equal in importance to cost or price.

11 (III) Significantly less important than cost or price.

12 (v) If the school district governing board wishes to reserve the
13 right to hold discussions or negotiations with responsive bidders,
14 it shall so specify in the request for proposal and shall publish
15 separately or incorporate into the request for proposal applicable
16 rules and procedures to be observed by the school district to ensure
17 that any discussions or negotiations are conducted in a fair and
18 impartial manner.

19 (3) Notwithstanding Section 4-315 of Title 24 of the California
20 Code of Regulations, an architect or structural engineer who is
21 party to a design-build entity may perform the services set forth
22 in Section 17302.

23 (b) (1) The school district shall establish a procedure to
24 prequalify design-build entities using a standard questionnaire
25 developed by the Director of the Department of Industrial
26 Relations. In preparing the questionnaire, the director shall consult
27 with the construction industry, including representatives of the
28 building trades, surety industry, school districts, and other affected
29 parties. This questionnaire shall require information including, but
30 not limited to, all of the following:

31 (A) If the design-build entity is a partnership, limited
32 partnership, or other association, a listing of all of the partners,
33 general partners, or association members who will participate as
34 subcontractors in the design-build contract, including, but not
35 limited to, electrical and mechanical subcontractors.

36 (B) Evidence that the members of the design-build entity have
37 completed, or demonstrated, the experience, competency,
38 capability, and capacity to complete projects of similar size, scope
39 or complexity, and that proposed key personnel have sufficient

1 experience and training to competently manage and complete the
2 design and construction of the project.

3 (C) The licenses, registration, and credentials required to design
4 and construct the project, including information on the revocation
5 or suspension of any license, credential, or registration.

6 (D) Evidence that establishes that the design-build entity has
7 the capacity to obtain all required payment and performance
8 bonding, liability insurance, and errors and omissions insurance,
9 as well as a financial statement that assures the school district that
10 the design-build entity has the capacity to complete the project.

11 (E) Any prior serious or willful violation of the California
12 Occupational Safety and Health Act of 1973 (Part 1 (commencing
13 with Section 6300) of Division 5 of the Labor Code) or the Federal
14 Occupational Safety and Health Act of 1970 (P.L. 91-596), settled
15 against any member of the design-build entity, and information
16 concerning a contractor member's workers' compensation
17 experience history and worker safety program.

18 (F) Information concerning any debarment, disqualification, or
19 removal from a federal, state or local government public works
20 project.

21 (G) Any instance where an entity, its owners, officers, or
22 managing employees, submitted a bid on a public works project
23 and were found by an awarding body not to be a responsible bidder.

24 (H) Any instance where the entity, its owner, officers, or
25 managing employees defaulted on a construction contract.

26 (I) Any prior violations of the Contractors State License Law
27 (Chapter 9 (commencing with Section 7000) of Division 3 of the
28 Business and Professions Code), excluding alleged violations of
29 federal or state law including the payment of wages, benefits,
30 apprenticeship requirements, or personal income tax withholding,
31 or of Federal Insurance Contribution Act (FICA) withholding
32 requirements, settled against any member of the design-build entity.

33 (J) Information concerning the bankruptcy or receivership of
34 any member of the entity, including information concerning any
35 work completed by a surety.

36 (K) Information concerning all settled adverse claims, disputes,
37 or lawsuits between the owner of a public works project and any
38 member of the design-build entity during the five-year period
39 preceding submission of the bid pursuant to this section, in which
40 the claim, settlement, or judgment exceeds fifty thousand dollars

1 (\$50,000). Information shall also be provided concerning any work
2 completed by a surety during this period.

3 (L) In the case of a partnership or other association that is not
4 a legal entity, a copy of the agreement creating the partnership or
5 association.

6 (2) The information required pursuant to this subdivision shall
7 be verified under oath by the design-build entity and its members
8 in the manner in which civil pleadings in civil actions are verified.
9 Information that is not a public record pursuant to the California
10 Public Records Act (Chapter 3.5 (commencing with Section 6250)
11 of Division 7 of Title I of the Government Code) shall not be open
12 to public inspection.

13 (c) The school district shall establish a procedure for final
14 selection of the design-build entity. Selection shall be based on
15 either of the following criteria:

16 (1) A competitive bidding process resulting in lump-sum bids
17 by the prequalified design-build entities. Award shall be made on
18 the basis of the lowest responsible bid.

19 (2) Notwithstanding any other provision of this code or of
20 Section 20110 of the Public Contract Code, a school district may
21 use a design-build competition based upon performance and other
22 criteria set forth by the governing board in the solicitation of
23 proposals. Criteria used in this evaluation of proposals may include,
24 but need not be limited to, the proposed design approach, life cycle
25 costs, project features, and project functions. However, competitive
26 proposals shall be evaluated by using the criteria and source
27 selection procedures specifically identified in the request for
28 proposal. Once the evaluation is complete, all responsive bidders
29 shall be ranked from the most advantageous to least advantageous
30 to the school district.

31 (A) Any architectural or engineering firm or individual retained
32 by the governing body of the school district to assist in the
33 development criteria or preparation of the request for proposal
34 shall not be eligible to participate in the competition with the
35 design-build entity.

36 (B) The award of the contract shall be made to the responsible
37 bidder whose proposal is determined, in writing by the school
38 district, to be the best value to the school district.

39 (C) Proposals shall be evaluated and scored solely on the basis
40 of the factors and source selection procedures identified in the

1 request for proposal. However, the following minimum factors
2 shall collectively represent at least 50 percent of the total weight
3 or consideration given to all criteria factors: price, technical
4 expertise, life cycle costs over 15 years or more, skilled labor force
5 availability, and acceptable safety record.

6 (D) The school district governing board shall issue a written
7 decision supporting its contract award and stating in detail the
8 basis of the award. The decision and the contract file must be
9 sufficient to satisfy an external audit.

10 (E) Notwithstanding any provision of the Public Contract Code,
11 upon issuance of a contract award, the school district governing
12 board shall publicly announce its awards identifying the contractor
13 to whom the award is made, the winning contractor's price proposal
14 and its overall combined rating on the request for proposal
15 evaluation factors. The notice of award shall also include the
16 agency's ranking in relation to all other responsive bidders and
17 their respective price proposals and a summary of the school
18 district's rationale for the contract award.

19 (F) For the purposes of this chapter, "skilled labor force
20 availability" means that an agreement exists with a registered
21 apprenticeship program, approved by the California Apprenticeship
22 Council, which has graduated apprentices in the preceding five
23 years. This graduation requirement shall not apply to programs
24 providing apprenticeship training for any craft that has not been
25 deemed by the Department of Labor and the Department of
26 Industrial Relations to be an apprenticable craft in the two years
27 prior to enactment of this act.

28 (G) For the purposes of this chapter, a bidder's "safety record"
29 shall be deemed "acceptable" if its experience modification rate
30 for the most recent three-year period is an average of 1.00 or less,
31 and its average total recordable injury or illness rate and average
32 lost work rate for the most recent three-year period does not exceed
33 the applicable statistical standards for its business category, or if
34 the bidder is a party to an alternative dispute resolution system as
35 provided for in Section 3201.5 of the Labor Code.

36 ~~SEC. 94.~~

37 *SEC. 87.* Section 14137 of the Government Code is amended
38 to read:

39 14137. (a) The department, in consultation with the Office of
40 Small Business Advocate, may establish a Small and Emerging

1 Contractor Technical Assistance Program. The purpose of the
2 program is to provide training and technical assistance to small
3 contractors to improve their ability to secure surety bond
4 guarantees, offered by the federal Small Business Administration.
5 Surety bond guarantees can assist small contractors in obtaining
6 surety bonds that are necessary to qualify for public works
7 construction projects awarded by state and local governments.

8 (b) For purposes of this article:

9 (1) "Program" means the Small and Emerging Contractor
10 Technical Assistance Program.

11 (2) "Small contractor" means a small business, as defined in
12 paragraph (1) of subdivision (d) of Section 14837 of the
13 Government Code, that is a contractor doing business in this state
14 and is licensed by the Contractors State License Board pursuant
15 to Article 5 (commencing with Section 7065) of Chapter 9 of
16 Division 3 of the Business and Professions Code.

17 ~~SEC. 95.~~

18 *SEC. 88.* Section 14661 of the Government Code is amended
19 to read:

20 14661. (a) For the purposes of this section, the definitions in
21 subdivision (a) of Section 13332.19 shall apply.

22 (b) Notwithstanding any provision of the Public Contract Code
23 or any other provision of law, when the Legislature authorizes the
24 use of the design-build construction procurement process for a
25 specific project, the Director of General Services may contract and
26 procure state office facilities and other buildings, structures, and
27 related facilities pursuant to this section.

28 (c) Prior to contracting with a design-build entity for the
29 procurement of state office facilities and other state buildings and
30 structures, the director shall:

31 (1) Prepare a program setting forth the performance criteria for
32 the design-build project. The performance criteria shall be prepared
33 by a design professional duly licensed and registered in the State
34 of California.

35 (2) (A) Establish a competitive prequalification and selection
36 process for design-build entities, including any subcontractors
37 listed at the time of bid, that clearly specifies the prequalification
38 criteria, and states the manner in which the winning design-build
39 entity will be selected.

1 (B) Prequalification shall be limited to consideration of all of
2 the following criteria:

3 (i) Possession of all required licenses, registration, and
4 credentials in good standing that are required to design and
5 construct the project.

6 (ii) Submission of evidence that establishes that the design-build
7 entity members have completed, or demonstrated the capability
8 to complete, projects of similar size, scope, or complexity, and
9 that proposed key personnel have sufficient experience and training
10 to competently manage and complete the design and construction
11 of the project.

12 (iii) Submission of a proposed project management plan that
13 establishes that the design-build entity has the experience,
14 competence, and capacity needed to effectively complete the
15 project.

16 (iv) Submission of evidence that establishes that the design-build
17 entity has the capacity to obtain all required payment and
18 performance bonding, liability insurance, and errors and omissions
19 insurance, as well as a financial statement that assures the
20 department that the design-build entity has the capacity to complete
21 the project.

22 (v) Provision of a declaration certifying that applying members
23 of the design-build entity have not had a surety company finish
24 work on any project within the last five years.

25 (vi) Provision of information and a declaration providing detail
26 concerning all of the following:

27 (I) Any construction or design claim or litigation totaling more
28 than five hundred thousand dollars (\$500,000) or 5 percent of the
29 annual value of work performed, whichever is less, settled against
30 any member of the design-build entity over the last five years.

31 (II) Serious violations of the Occupational Safety and Health
32 Act, as provided in Part 1 (commencing with Section 6300) of
33 Division 5 of the Labor Code, settled against any member of the
34 design-build entity.

35 (III) Violations of federal or state law, including, but not limited
36 to, those laws governing the payment of wages, benefits, or
37 personal income tax withholding, or of Federal Insurance
38 Contributions Act (FICA) withholding requirements, state disability
39 insurance withholding, or unemployment insurance payment
40 requirements, settled against any member of the design-build entity

1 over the last five years. For the purposes of this subclause, only
2 violations by a design-build member as an employer shall be
3 deemed applicable, unless it is shown that the design-build entity
4 member, in his or her capacity as an employer, had knowledge of
5 his or her subcontractor's violations or failed to comply with the
6 conditions set forth in subdivision (b) of Section 1775 of the Labor
7 Code.

8 (IV) Information required by Section 10162 of the Public
9 Contract Code.

10 (V) Violations of the Contractors State License Law (Chapter
11 9 (commencing with Section 7000) of Division 3 of the Business
12 and Professions Code), excluding alleged violations or complaints.

13 (VI) Any conviction of any member of the design-build entity
14 of submitting a false or fraudulent claim to a public agency over
15 the last five years.

16 (vii) Provision of a declaration that the design-build entity will
17 comply with all other provisions of law applicable to the project,
18 including, but not limited to, the requirements of Chapter 1
19 (commencing with Section 1720) of Part 7 of Division 2 of the
20 Labor Code.

21 (C) The director, when requested by the design-build entity,
22 shall hold in confidence any information required by clauses (i)
23 to (vi), inclusive.

24 (D) Any declaration required under subparagraph (B) shall state
25 that reasonable diligence has been used in its preparation and that
26 it is true and complete to the best of the signer's knowledge. A
27 person who certifies as true any material matter that he or she
28 knows to be false is guilty of a misdemeanor and shall be punished
29 by not more than one year in a county jail, by a fine of not more
30 than five thousand dollars (\$5,000), or by both the fine and
31 imprisonment.

32 (3) (A) Determine, as he or she deems in the best interests of
33 the state, which of the following methods listed in subparagraph
34 (B) will be used as the process for the winning design-build entity.
35 The director shall provide a notification to the State Public Works
36 Board, regarding the method selected for determining the winning
37 design-build entity, at least 30 days prior to publicizing the
38 design-build solicitation package.

39 (B) The director shall make his or her determination by choosing
40 one of the following methods:

1 (i) A design-build competition based upon performance, price,
2 and other criteria set forth by the department in the design-build
3 solicitation package. The department shall establish technical
4 criteria and methodology, including price, to evaluate proposals
5 and shall describe the criteria and methodology in the design-build
6 solicitation package. Award shall be made to the design-build
7 entity whose proposal is judged as providing the best value in
8 meeting the interest of the department and meeting the objectives
9 of the project. A project with an approved budget of ten million
10 dollars (\$10,000,000) or more may be awarded pursuant to this
11 clause.

12 (ii) A design-build competition based upon performance and
13 other criteria set forth by the department in the design-build
14 solicitation package. Criteria used in this evaluation of proposals
15 may include, but need not be limited to, items such as proposed
16 design approach, life-cycle costs, project features, and functions.
17 However, any criteria and methods used to evaluate proposals shall
18 be limited to those contained in the design-build solicitation
19 package. Award shall be made to the design-build entity whose
20 proposal is judged as providing the best value, for the lowest price,
21 meeting the interests of the department and meeting the objectives
22 of the project. A project with an approved budget of ten million
23 dollars (\$10,000,000) or more may be awarded pursuant to this
24 clause.

25 (iii) A design-build competition based upon program
26 requirements and a detailed scope of work, including any
27 performance criteria and concept drawings set forth by the
28 department in the design-build solicitation package. Award shall
29 be made on the basis of the lowest responsible bid. A project with
30 an approved budget of two hundred fifty thousand dollars
31 (\$250,000) or more may be awarded pursuant to this clause.

32 (4) For the purposes of this subdivision, the following definitions
33 shall apply:

34 (A) "Best interest of the state" means a design-build process
35 that is projected by the director to reduce the project delivery
36 schedule and total cost of a project while maintaining a high level
37 of quality workmanship and materials, when compared to the
38 traditional design-bid-build process.

39 (B) "Best value" means a value determined by objective criteria
40 that may include, but is not limited to, price, features, functions,

1 life cycle costs, experience, and other criteria deemed appropriate
2 by the department.

3 (d) The Legislature recognizes that the design-build entity is
4 charged with performing both design and construction. Because
5 a design-build contract may be awarded prior to the completion
6 of the design, it is often impracticable for the design-build entity
7 to list all subcontractors at the time of the award. As a result, the
8 subcontractor listing requirements contained in Chapter 4
9 (commencing with Section 4100) of Part 1 of Division 2 of the
10 Public Contract Code can create a conflict with the implementation
11 of the design-build process by requiring all subcontractors to be
12 listed at a time when a sufficient set of plans may not be available.
13 It is the intent of the Legislature to establish a clear process for
14 the selection and award of subcontracts entered into pursuant to
15 this section in a manner that retains protection for subcontractors
16 while enabling design-build projects to be administered in an
17 efficient fashion. Therefore, all of the following requirements shall
18 apply to subcontractors, licensed pursuant to Chapter 9
19 (commencing with Section 7000) of Division 3 of the Business
20 and Professions Code, that are employed on design-build projects
21 undertaken pursuant to this section:

22 (1) The department, in each design-build solicitation package,
23 may identify types of subcontractors, by subcontractor license
24 classification, that will be listed by the design-build entity at the
25 time of the bid. In selecting the subcontractors that will be listed
26 by the design-build entity, the department shall limit the
27 identification to only those license classifications deemed essential
28 for proper completion of the project. In no event, however, may
29 the department specify more than five licensed subcontractor
30 classifications. In addition, at its discretion, the design-build entity
31 may list an additional two subcontractors, identified by
32 subcontractor license classification, that will perform design or
33 construction work, or both, on the project. In no event shall the
34 design-build entity list at the time of bid a total amount of
35 subcontractors that will perform design or construction work, or
36 both, in a total of more than seven subcontractor license
37 classifications on a project. All subcontractors that are listed at the
38 time of bid shall be afforded all of the protection contained in
39 Chapter 4 (commencing with Section 4100) of Part 1 of Division
40 2 of the Public Contract Code. All subcontracts that were not listed

1 by the design-build entity at the time of bid shall be awarded in
2 accordance with paragraph (2).

3 (2) All subcontracts that were not to be performed by the
4 design-build entity in accordance with paragraph (1) shall be
5 competitively bid and awarded by the design-build entity, in
6 accordance with the design-build process set forth by the
7 department in the design-build solicitation package. The
8 design-build entity shall do all of the following:

9 (A) Provide public notice of the availability of work to be
10 subcontracted in accordance with Section 10140 of the Public
11 Contract Code.

12 (B) Provide a fixed date and time on which the subcontracted
13 work will be awarded in accordance with Section 10141 of the
14 Public Contract Code.

15 (C) As authorized by the department, establish reasonable
16 prequalification criteria and standards, limited in scope to those
17 detailed in paragraph (2) of subdivision (c).

18 (D) Provide that the subcontracted work shall be awarded to
19 the lowest responsible bidder.

20 (e) This section shall not be construed and is not intended to
21 extend or limit the authority specified in Section 19130.

22 (f) Any design-build entity that is selected to design and
23 construct a project pursuant to this section shall possess or obtain
24 sufficient bonding consistent with applicable provisions of the
25 Public Contract Code. Nothing in this section shall prohibit a
26 general or engineering contractor from being designated the lead
27 entity on a design-build entity for the purposes of purchasing
28 necessary bonding to cover the activities of the design-build entity.

29 (g) Any payment or performance bond written for the purposes
30 of this section shall use a bond form developed by the department.
31 In developing the bond form, the department shall consult with
32 the surety industry to achieve a bond form that is consistent with
33 surety industry standards, while protecting the interests of the state.

34 ~~SEC. 96.~~

35 *SEC. 89.* Section 14661.1 of the Government Code is amended
36 to read:

37 14661.1. (a) For purposes of this section, the definitions in
38 subdivision (a) of Section 13332.19 shall apply. For purposes of
39 subdivision (a) of Section 13332.19, references to the Department
40 of General Services shall be deemed to be references to the

1 Department of General Services or the Department of Corrections
2 and Rehabilitation, as applicable.

3 (b) Notwithstanding any provision of the Public Contract Code
4 or any other provision of law, when the Legislature appropriates
5 funds for a specific project, or for any project using funds
6 appropriated pursuant to Chapter 3.2.1 (commencing with Section
7 15819.40) or 3.2.2 (commencing with Section 15819.41) of Part
8 10b of this division, the Director of General Services or the
9 Secretary of the Department of Corrections and Rehabilitation, as
10 appropriate, may contract and procure state office facilities and
11 prison facilities pursuant to this section.

12 (c) Prior to contracting with a design-build entity for the
13 procurement of a state office facility or prison facility under this
14 section, the Director of General Services or the Secretary of the
15 Department of Corrections and Rehabilitation shall:

16 (1) Prepare a program setting forth the performance criteria for
17 the design-build project. The performance criteria shall be prepared
18 by a design professional duly licensed and registered in the State
19 of California.

20 (2) (A) Establish a competitive prequalification and selection
21 process for design-build entities, including any subcontractors
22 listed at the time of bid, that clearly specifies the prequalification
23 criteria, and states the manner in which the winning design-build
24 entity will be selected.

25 (B) Prequalification shall be limited to consideration of all of
26 the following criteria:

27 (i) Possession of all required licenses, registration, and
28 credentials in good standing that are required to design and
29 construct the project.

30 (ii) Submission of evidence that establishes that the design-build
31 entity members have completed, or demonstrated the capability
32 to complete, projects of similar size, scope, or complexity, and
33 that proposed key personnel have sufficient experience and training
34 to competently manage and complete the design and construction
35 of the project.

36 (iii) Submission of a proposed project management plan that
37 establishes that the design-build entity has the experience,
38 competence, and capacity needed to effectively complete the
39 project.

1 (iv) Submission of evidence that establishes that the design-build
2 entity has the capacity to obtain all required payment and
3 performance bonding, liability insurance, and errors and omissions
4 insurance, as well as a financial statement that assures the
5 Department of General Services or the Department of Corrections
6 and Rehabilitation that the design-build entity has the capacity to
7 complete the project.

8 (v) Provision of a declaration certifying that applying members
9 of the design-build entity have not had a surety company finish
10 work on any project within the last five years.

11 (vi) Provision of information and a declaration providing detail
12 concerning all of the following:

13 (I) Any construction or design claim or litigation totaling more
14 than five hundred thousand dollars (\$500,000) or 5 percent of the
15 annual value of work performed, whichever is less, settled against
16 any member of the design-build entity over the last five years.

17 (II) Serious violations of the California Occupational Safety
18 and Health Act of 1973, as provided in Part 1 (commencing with
19 Section 6300) of Division 5 of the Labor Code, settled against any
20 member of the design-build entity.

21 (III) Violations of federal or state law, including, but not limited
22 to, those laws governing the payment of wages, benefits, or
23 personal income tax withholding, of Federal Insurance
24 Contributions Act (FICA) withholding requirements, state disability
25 insurance withholding, or unemployment insurance payment
26 requirements, settled against any member of the design-build entity
27 over the last five years. For purposes of this subclause, only
28 violations by a design-build member as an employer shall be
29 deemed applicable, unless it is shown that the design-build entity
30 member, in his or her capacity as an employer, had knowledge of
31 his or her subcontractor's violations or failed to comply with the
32 conditions set forth in subdivision (b) of Section 1775 of the Labor
33 Code.

34 (IV) Information required by Section 10162 of the Public
35 Contract Code.

36 (V) Violations of the Contractors State License Law (Chapter
37 9 (commencing with Section 7000) of Division 3 of the Business
38 and Professions Code), excluding alleged violations or complaints.

1 (VI) Any conviction of any member of the design-build entity
2 of submitting a false or fraudulent claim to a public agency over
3 the last five years.

4 (vii) Provision of a declaration that the design-build entity will
5 comply with all other provisions of law applicable to the project,
6 including, but not limited to, the requirements of Chapter 1
7 (commencing with Section 1720) of Part 7 of Division 2 of the
8 Labor Code.

9 (C) The Director of General Services or the Secretary of the
10 Department of Corrections and Rehabilitation, when requested by
11 the design-build entity, shall hold in confidence any information
12 required by clauses (i) to (vi), inclusive, of subparagraph (B).

13 (D) Any declaration required under subparagraph (B) shall state
14 that reasonable diligence has been used in its preparation and that
15 it is true and complete to the best of the signer's knowledge. A
16 person who certifies as true any material matter that he or she
17 knows to be false is guilty of a misdemeanor and shall be punished
18 by not more than one year in a county jail, by a fine of not more
19 than five thousand dollars (\$5,000), or by both the fine and
20 imprisonment.

21 (3) (A) Determine, as he or she deems in the best interests of
22 the state, which of the following methods listed in subparagraph
23 (B) will be used as the process for the winning design-build entity.
24 He or she shall provide a notification to the State Public Works
25 Board, regarding the method selected for determining the winning
26 design-build entity, at least 30 days prior to publicizing the
27 design-build solicitation package.

28 (B) The Director of General Services or the Secretary of the
29 Department of Corrections and Rehabilitation shall make his or
30 her determination by choosing one of the following methods:

31 (i) A design-build competition based upon performance, price,
32 and other criteria set forth by the Department of General Services
33 or the Department of Corrections and Rehabilitation in the
34 design-build solicitation package. The Department of General
35 Services or the Department of Corrections and Rehabilitation shall
36 establish technical criteria and methodology, including price, to
37 evaluate proposals and shall describe the criteria and methodology
38 in the design-build solicitation package. Award shall be made to
39 the design-build entity whose proposal is judged as providing the
40 best value in meeting the interests of the Department of General

1 Services or the Department of Corrections and Rehabilitation and
2 meeting the objectives of the project. A project with an approved
3 budget of ten million dollars (\$10,000,000) or more may be
4 awarded pursuant to this clause.

5 (ii) A design-build competition based upon performance and
6 other criteria set forth by the Department of General Services or
7 the Department of Corrections and Rehabilitation in the
8 design-build solicitation package. Criteria used in this evaluation
9 of proposals may include, but need not be limited to, items such
10 as proposed design approach, life-cycle costs, project features, and
11 functions. However, any criteria and methods used to evaluate
12 proposals shall be limited to those contained in the design-build
13 solicitation package. Award shall be made to the design-build
14 entity whose proposal is judged as providing the best value, for
15 the lowest price, meeting the interests of the Department of General
16 Services or the Department of Corrections and Rehabilitation and
17 meeting the objectives of the project. A project with an approved
18 budget of ten million dollars (\$10,000,000) or more may be
19 awarded pursuant to this clause.

20 (iii) A design-build competition based upon program
21 requirements and a detailed scope of work, including any
22 performance criteria and concept drawings set forth by the
23 Department of General Services or the Department of Corrections
24 and Rehabilitation in the design-build solicitation package. Award
25 shall be made on the basis of the lowest responsible bid. A project
26 with an approved budget of two hundred fifty thousand dollars
27 (\$250,000) or more may be awarded pursuant to this clause.

28 (4) For purposes of this subdivision, the following definitions
29 shall apply:

30 (A) "Best interest of the state" means a design-build process
31 that is projected by the Director of General Services or the
32 Secretary of the Department of Corrections and Rehabilitation to
33 reduce the project delivery schedule and total cost of a project
34 while maintaining a high level of quality workmanship and
35 materials, when compared to the traditional design-bid-build
36 process.

37 (B) "Best value" means a value determined by objective criteria
38 that may include, but are not limited to, price, features, functions,
39 life-cycle costs, experience, and other criteria deemed appropriate

1 by the Department of General Services or the Department of
2 Corrections and Rehabilitation.

3 (d) The Legislature recognizes that the design-build entity is
4 charged with performing both design and construction. Because
5 a design-build contract may be awarded prior to the completion
6 of the design, it is often impracticable for the design-build entity
7 to list all subcontractors at the time of the award. As a result, the
8 subcontractor listing requirements contained in Chapter 4
9 (commencing with Section 4100) of Part 1 of Division 2 of the
10 Public Contract Code can create a conflict with the implementation
11 of the design-build process by requiring all subcontractors to be
12 listed at a time when a sufficient set of plans shall not be available.
13 It is the intent of the Legislature to establish a clear process for
14 the selection and award of subcontracts entered into pursuant to
15 this section in a manner that retains protection for subcontractors
16 while enabling design-build projects to be administered in an
17 efficient fashion. Therefore, all of the following requirements shall
18 apply to subcontractors, licensed pursuant to Chapter 9
19 (commencing with Section 7000) of Division 3 of the Business
20 and Professions Code, that are employed on design-build projects
21 undertaken pursuant to this section:

22 (1) The Department of General Services and the Department of
23 Corrections and Rehabilitation, in each design-build solicitation
24 package, may identify types of subcontractors, by subcontractor
25 license classification, that will be listed by the design-build entity
26 at the time of the bid. In selecting the subcontractors that will be
27 listed by the design-build entity, the Department of General
28 Services and the Department of Corrections and Rehabilitation
29 shall limit the identification to only those license classifications
30 deemed essential for proper completion of the project. In no event,
31 however, may the Department of General Services or the
32 Department of Corrections and Rehabilitation specify more than
33 five licensed subcontractor classifications. In addition, at its
34 discretion, the design-build entity may list an additional two
35 subcontractors, identified by subcontractor license classification,
36 that will perform design or construction work, or both, on the
37 project. In no event shall the design-build entity list at the time of
38 bid a total number of subcontractors that will perform design or
39 construction work, or both, in a total of more than seven
40 subcontractor license classifications on a project. All subcontractors

1 that are listed at the time of bid shall be afforded all of the
2 protection contained in Chapter 4 (commencing with Section 4100)
3 of Part 1 of Division 2 of the Public Contract Code. All
4 subcontracts that were not listed by the design-build entity at the
5 time of bid shall be awarded in accordance with paragraph (2).

6 (2) All subcontracts that were not to be performed by the
7 design-build entity in accordance with paragraph (1) shall be
8 competitively bid and awarded by the design-build entity, in
9 accordance with the design-build process set forth by the
10 Department of General Services or the Department of Corrections
11 and Rehabilitation in the design-build solicitation package. The
12 design-build entity shall do all of the following:

13 (A) Provide public notice of the availability of work to be
14 subcontracted in accordance with Section 10140 of the Public
15 Contract Code.

16 (B) Provide a fixed date and time on which the subcontracted
17 work will be awarded in accordance with Section 10141 of the
18 Public Contract Code.

19 (C) As authorized by the Department of General Services or
20 the Department of Corrections and Rehabilitation, establish
21 reasonable prequalification criteria and standards, limited in scope
22 to those detailed in paragraph (2) of subdivision (c).

23 (D) Provide that the subcontracted work shall be awarded to
24 the lowest responsible bidder.

25 (e) This section shall not be construed and is not intended to
26 extend or limit the authority specified in Section 19130.

27 (f) Any design-build entity that is selected to design and
28 construct a project pursuant to this section shall possess or obtain
29 sufficient bonding consistent with applicable provisions of the
30 Public Contract Code. Nothing in this section shall prohibit a
31 general or engineering contractor from being designated the lead
32 entity on a design-build entity for the purposes of purchasing
33 necessary bonding to cover the activities of the design-build entity.

34 (g) Any payment or performance bond written for the purposes
35 of this section shall use a bond form developed by the Department
36 of General Services or the Department of Corrections and
37 Rehabilitation. In developing the bond form, the Department of
38 General Services or the Department of Correction and
39 Rehabilitation shall consult with the surety industry to achieve a

1 bond form that is consistent with surety industry standards, while
2 protecting the interests of the state.

3 (h) The Department of General Services or the Department of
4 Corrections and Rehabilitation, as appropriate, shall each submit
5 to the Joint Legislative Budget Committee, before January 1, 2014,
6 a report containing a description of each public works project
7 procured by that department through the design-build process
8 described in this section that is completed after January 1, 2009,
9 and before December 1, 2013. The report shall include, but shall
10 not be limited to, all of the following information:

- 11 (1) The type of project.
- 12 (2) The gross square footage of the project.
- 13 (3) The design-build entity that was awarded the project.
- 14 (4) The estimated and actual project costs.
- 15 (5) An assessment of the prequalification process and criteria.
- 16 (6) An assessment of the effect of any retention on the project
17 made under the law.
- 18 (7) A description of the method used to award the contract. If
19 the best value method was used, the report shall describe the factors
20 used to evaluate the bid, including the weighting of each factor
21 and an assessment of the effectiveness of the methodology.

22 (i) The authority provided under this section shall be in addition
23 to the authority provided to the Department of General Services
24 pursuant to Section 4 of Chapter 252 of the Statutes of 1998, as
25 amended by Section 3 of Chapter 154 of the Statutes of 2007. The
26 authority under this section and Section 70391.7 shall apply to a
27 total of not more than five state office facilities, prison facilities,
28 or court facilities, which shall be determined pursuant to this
29 subdivision.

30 (1) In order to enter into a contract utilizing the procurement
31 method authorized under this section, the Director of General
32 Services or the Secretary of the Department of Corrections and
33 Rehabilitation shall submit a request to the Department of Finance.

34 (2) The Department of Finance shall make a determination
35 whether to approve or deny a request made pursuant to paragraph
36 (1) if the design-build project requested will not exceed the five
37 facilities maximum set forth in this section and Section 70391.7.

38 (3) After receiving notification that the Department of Finance
39 has approved the request and that the Legislature has appropriated

1 funds for a specific project, the director or secretary may enter into
2 a design-build contract under this section.

3 (j) Nothing in this section is intended to affect, expand, alter,
4 or limit any rights or remedies otherwise available under the law.

5 ~~SEC. 97.~~

6 *SEC. 90.* Section 26509 of the Government Code is amended
7 to read:

8 26509. (a) Notwithstanding any other provision of law,
9 including any provision making records confidential, and including
10 Title 1.8 (commencing with Section 1798) of Part 4 of Division 3
11 of the Civil Code, the district attorney shall be given access to,
12 and may make copies of, any complaint against a person subject
13 to regulation by a consumer-oriented state agency and any
14 investigation of the person made by the agency, where that person
15 is being investigated by the district attorney regarding possible
16 consumer fraud.

17 (b) Where the district attorney does not take action with respect
18 to the complaint or investigation, the material shall remain
19 confidential.

20 (c) Where the release of the material would jeopardize an
21 investigation or other duties of a consumer-oriented state agency,
22 the agency shall have discretion to delay the release of the
23 information.

24 (d) As used in this section, a consumer-oriented state agency is
25 any state agency that regulates the licensure, certification, or
26 qualification of persons to practice a profession or business within
27 the state, where the regulation is for the protection of consumers
28 who deal with the professionals or businesses. It includes, but is
29 not limited to, all of the following:

- 30 (1) The Dental Board of California.
- 31 (2) The Medical Board of California.
- 32 (3) The State Board of Optometry.
- 33 (4) The California State Board of Pharmacy.
- 34 (5) The Veterinary Medical Board.
- 35 (6) The California Board of Accountancy.
- 36 (7) The California Architects Board.
- 37 (8) The State Board of Barbering and Cosmetology.
- 38 (9) The Board for Professional Engineers and Land Surveyors.
- 39 (10) The Contractors State License Board.
- 40 (11) The Funeral Directors and Embalmers Program.

- 1 (12) The Structural Pest Control Board.
- 2 (13) The Bureau of Home Furnishings and Thermal Insulation.
- 3 (14) The Board of Registered Nursing.
- 4 (15) The State Board of Chiropractic Examiners.
- 5 (16) The Board of Behavioral Sciences.
- 6 (17) The State Athletic Commission.
- 7 (18) The Cemetery Program.
- 8 (19) The State Board of Guide Dogs for the Blind.
- 9 (20) The Bureau of Security and Investigative Services.
- 10 (21) The Court Reporters Board of California.
- 11 (22) The Board of Vocational Nursing and Psychiatric
- 12 Technicians of the State of California.
- 13 (23) The Osteopathic Medical Board of California.
- 14 (24) The Division of Investigation.
- 15 (25) The Bureau of Automotive Repair.
- 16 (26) The State Board for Geologists and Geophysicists.
- 17 (27) The Department of Alcoholic Beverage Control.
- 18 (28) The Department of Insurance.
- 19 (29) The Public Utilities Commission.
- 20 (30) The State Department of Public Health.
- 21 (31) The New Motor Vehicle Board.

22 ~~SEC. 98.~~

23 *SEC. 91.* Section 63047 of the Government Code is amended
24 to read:

25 63047. (a) Any loan entered into pursuant to this article may
26 contain provisions for payment of a penalty if any recipient of
27 funds under this article leaves this state prior to the completion of
28 the full term of the loan.

29 (b) Projects that the board determines will produce long-term
30 employment creation or retention shall receive first priority for
31 financing.

32 (c) Any recipient of funds under this article that utilizes the
33 funds for construction purposes, shall certify that the contractors
34 are properly licensed by the Contractors State License Board.

35 (d) The bank shall require that the proposed economic
36 development facilities be consistent with any existing local or
37 regional comprehensive plan.

38 (e) The bank shall develop a policy regarding financing
39 companies that move within this state so as to minimize any
40 displacement of jobs.

(f) In addition to any other methods the bank may use to identify economic development projects, the bank shall utilize existing local economic development networks to identify these projects and prepare a plan, in consultation with local economic development networks and their organizations and representatives, to implement this policy.

~~SEC. 99.~~

SEC. 92. Section 70391.7 of the Government Code is amended to read:

70391.7. (a) For purposes of this section, the definitions in subdivision (a) of Section 13332.19 shall apply. For purposes of subdivision (a) of Section 13332.19, references to the Department of General Services shall be deemed to be references to the Judicial Council.

(b) Notwithstanding any provision of the Public Contract Code or any other law, when the Legislature appropriates funds for a specific project, the Judicial Council may contract and procure court facilities pursuant to this section.

(c) Prior to contracting with a design-build entity for the procurement of a court facility under this section, the Judicial Council shall:

(1) Prepare a program setting forth the performance criteria for the design-build project. The performance criteria shall be prepared by a design professional duly licensed and registered in the State of California.

(2) (A) Establish a competitive prequalification and selection process for design-build entities, including any subcontractors listed at the time of bid, that clearly specifies the prequalification criteria, and states the manner in which the winning design-build entity will be selected.

(B) Prequalification shall be limited to consideration of all of the following criteria:

(i) Possession of all required licenses, registration, and credentials in good standing that are required to design and construct the project.

(ii) Submission of evidence that establishes that the design-build entity members have completed, or demonstrated the capability to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training

1 to competently manage and complete the design and construction
2 of the project.

3 (iii) Submission of a proposed project management plan that
4 establishes that the design-build entity has the experience,
5 competence, and capacity needed to effectively complete the
6 project.

7 (iv) Submission of evidence that establishes that the design-build
8 entity has the capacity to obtain all required payment and
9 performance bonding, liability insurance, and errors and omissions
10 insurance, as well as a financial statement that assures the Judicial
11 Council that the design-build entity has the capacity to complete
12 the project.

13 (v) Provision of a declaration certifying that applying members
14 of the design-build entity have not had a surety company finish
15 work on any project within the last five years.

16 (vi) Provision of information and a declaration providing detail
17 concerning all of the following:

18 (I) Any construction or design claim or litigation totaling more
19 than five hundred thousand dollars (\$500,000) or 5 percent of the
20 annual value of work performed, whichever is less, settled against
21 any member of the design-build entity over the last five years.

22 (II) Serious violations of the California Occupational Safety
23 and Health Act of 1973, as provided in Part 1 (commencing with
24 Section 6300) of Division 5 of the Labor Code, settled against any
25 member of the design-build entity.

26 (III) Violations of federal or state law, including, but not limited
27 to, those laws governing the payment of wages, benefits, or
28 personal income tax withholding, or of Federal Insurance
29 Contributions Act (FICA) withholding requirements, state disability
30 insurance withholding, or unemployment insurance payment
31 requirements, settled against any member of the design-build entity
32 over the last five years. For purposes of this subclause, only
33 violations by a design-build member as an employer shall be
34 deemed applicable, unless it is shown that the design-build entity
35 member, in his or her capacity as an employer, had knowledge of
36 his or her subcontractor's violations or failed to comply with the
37 conditions set forth in subdivision (b) of Section 1775 of the Labor
38 Code.

39 (IV) Information required by Section 10162 of the Public
40 Contract Code.

1 (V) Violations of the Contractors State License Law (Chapter
2 9 (commencing with Section 7000) of Division 3 of the Business
3 and Professions Code), excluding alleged violations or complaints.

4 (VI) Any conviction of any member of the design-build entity
5 of submitting a false or fraudulent claim to a public agency over
6 the last five years.

7 (vii) Provision of a declaration that the design-build entity will
8 comply with all other provisions of law applicable to the project,
9 including, but not limited to, the requirements of Chapter 1
10 (commencing with Section 1720) of Part 7 of Division 2 of the
11 Labor Code.

12 (C) The Judicial Council, when requested by the design-build
13 entity, shall hold in confidence any information required by clauses
14 (i) to (vi), inclusive, of subparagraph (B).

15 (D) Any declaration required under subparagraph (B) shall state
16 that reasonable diligence has been used in its preparation and that
17 it is true and complete to the best of the signer's knowledge. A
18 person who certifies as true any material matter that he or she
19 knows to be false is guilty of a misdemeanor and shall be punished
20 by not more than one year in a county jail, by a fine of not more
21 than five thousand dollars (\$5,000), or by both the fine and
22 imprisonment.

23 (3) (A) Determine, as the Judicial Council deems in the best
24 interests of the state, which of the following methods listed in
25 subparagraph (B) will be used as the process for the winning
26 design-build entity. The Judicial Council shall provide a
27 notification to the State Public Works Board, regarding the method
28 selected for determining the winning design-build entity, at least
29 30 days prior to publicizing the design-build solicitation package.

30 (B) The Judicial Council shall make its determination by
31 choosing one of the following methods:

32 (i) A design-build competition based upon performance, price,
33 and other criteria set forth by the Judicial Council in the
34 design-build solicitation package. The Judicial Council shall
35 establish technical criteria and methodology, including price, to
36 evaluate proposals and shall describe the criteria and methodology
37 in the design-build solicitation package. Award shall be made to
38 the design-build entity whose proposal is judged as providing the
39 best value in meeting the interests of the Judicial Council and
40 meeting the objectives of the project. A project with an approved

1 budget of ten million dollars (\$10,000,000) or more may be
2 awarded pursuant to this clause.

3 (ii) A design-build competition based upon performance and
4 other criteria set forth by the Judicial Council in the design-build
5 solicitation package. Criteria used in this evaluation of proposals
6 may include, but need not be limited to, items such as proposed
7 design approach, life-cycle costs, project features, and functions.
8 However, any criteria and methods used to evaluate proposals shall
9 be limited to those contained in the design-build solicitation
10 package. Award shall be made to the design-build entity whose
11 proposal is judged as providing the best value, for the lowest price,
12 meeting the interests of the Judicial Council and meeting the
13 objectives of the project. A project with an approved budget of ten
14 million dollars (\$10,000,000) or more may be awarded pursuant
15 to this clause.

16 (iii) A design-build competition based upon program
17 requirements and a detailed scope of work, including any
18 performance criteria and concept drawings set forth by the Judicial
19 Council in the design-build solicitation package. Award shall be
20 made on the basis of the lowest responsible bid. A project with an
21 approved budget of two hundred fifty thousand dollars (\$250,000)
22 or more may be awarded pursuant to this clause.

23 (4) For purposes of this subdivision, the following definitions
24 shall apply:

25 (A) “Best interest of the state” means a design-build process
26 that is projected by the Judicial Council to reduce the project
27 delivery schedule and total cost of a project while maintaining a
28 high level of quality workmanship and materials, when compared
29 to the traditional design-bid-build process.

30 (B) “Best value” means a value determined by objective criteria
31 that may include, but are not limited to, price, features, functions,
32 life-cycle costs, experience, and other criteria deemed appropriate
33 by the Judicial Council.

34 (d) The Legislature recognizes that the design-build entity is
35 charged with performing both design and construction. Because
36 a design-build contract may be awarded prior to the completion
37 of the design, it is often impracticable for the design-build entity
38 to list all subcontractors at the time of the award. As a result, the
39 subcontractor listing requirements contained in Chapter 4
40 (commencing with Section 4100) of Part 1 of Division 2 of the

1 Public Contract Code can create a conflict with the implementation
2 of the design-build process by requiring all subcontractors to be
3 listed at a time when a sufficient set of plans may not be available.
4 It is the intent of the Legislature to establish a clear process for
5 the selection and award of subcontracts entered into pursuant to
6 this section in a manner that retains protection for subcontractors
7 while enabling design-build projects to be administered in an
8 efficient fashion. Therefore, all of the following requirements shall
9 apply to subcontractors, licensed pursuant to Chapter 9
10 (commencing with Section 7000) of Division 3 of the Business
11 and Professions Code, that are employed on design-build projects
12 undertaken pursuant to this section:

13 (1) The Judicial Council, in each design-build solicitation
14 package, may identify types of subcontractors, by subcontractor
15 license classification, that will be listed by the design-build entity
16 at the time of the bid. In selecting the subcontractors that will be
17 listed by the design-build entity, the Judicial Council shall limit
18 the identification to only those license classifications deemed
19 essential for proper completion of the project. In no event, however,
20 may the Judicial Council specify more than five licensed
21 subcontractor classifications. In addition, at its discretion, the
22 design-build entity may list an additional two subcontractors,
23 identified by subcontractor license classification, that will perform
24 design or construction work, or both, on the project. In no event
25 shall the design-build entity list at the time of bid a total number
26 of subcontractors that will perform design or construction work,
27 or both, in a total of more than seven subcontractor license
28 classifications on a project. All subcontractors that are listed at the
29 time of bid shall be afforded all of the protection contained in
30 Chapter 4 (commencing with Section 4100) of Part 1 of Division
31 2 of the Public Contract Code. All subcontracts that were not listed
32 by the design-build entity at the time of bid shall be awarded in
33 accordance with paragraph (2).

34 (2) All subcontracts that were not to be performed by the
35 design-build entity in accordance with paragraph (1) shall be
36 competitively bid and awarded by the design-build entity, in
37 accordance with the design-build process set forth by the Judicial
38 Council in the design-build solicitation package. The design-build
39 entity shall do all of the following:

1 (A) Provide public notice of the availability of work to be
2 subcontracted in accordance with Section 10140 of the Public
3 Contract Code.

4 (B) Provide a fixed date and time on which the subcontracted
5 work will be awarded in accordance with Section 10141 of the
6 Public Contract Code.

7 (C) As authorized by the Judicial Council, establish reasonable
8 prequalification criteria and standards, limited in scope to those
9 detailed in paragraph (2) of subdivision (c).

10 (D) Provide that the subcontracted work shall be awarded to
11 the lowest responsible bidder.

12 (e) This section shall not be construed and is not intended to
13 extend or limit the authority specified in Section 19130.

14 (f) Any design-build entity that is selected to design and
15 construct a project pursuant to this section shall possess or obtain
16 sufficient bonding consistent with applicable provisions of the
17 Public Contract Code. Nothing in this section shall prohibit a
18 general or engineering contractor from being designated the lead
19 entity on a design-build entity for the purposes of purchasing
20 necessary bonding to cover the activities of the design-build entity.

21 (g) Any payment or performance bond written for the purposes
22 of this section shall use a bond form developed by the Judicial
23 Council. In developing the bond form, the Judicial Council shall
24 consult with the surety industry to achieve a bond form that is
25 consistent with surety industry standards, while protecting the
26 interests of the state.

27 (h) The Judicial Council shall submit to the Joint Legislative
28 Budget Committee, before January 1, 2014, a report containing a
29 description of each public works project procured through the
30 design-build process described in this section that is completed
31 after January 1, 2009, and before December 1, 2013. The report
32 shall include, but shall not be limited to, all of the following
33 information:

- 34 (1) The type of project.
35 (2) The gross square footage of the project.
36 (3) The design-build entity that was awarded the project.
37 (4) The estimated and actual project costs.
38 (5) An assessment of the prequalification process and criteria.
39 (6) An assessment of the effect of any retention on the project
40 made under the law.

(7) A description of the method used to award the contract. If the best value method was used, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(i) The authority under this section and Section 14661.1 shall apply to a total of not more than five state office facilities, prison facilities, or court facilities, which shall be determined pursuant to this subdivision.

(1) In order to enter into a contract utilizing the procurement method authorized under this section, the Judicial Council shall submit a request to the Department of Finance.

(2) The Department of Finance shall make a determination whether to approve or deny a request made pursuant to paragraph (1) if the design-build project requested will not exceed the five facilities maximum set forth in this section and Section 14661.1.

(3) After receiving notification that the Department of Finance has approved the request and that the Legislature has appropriated funds for a specific project, the Judicial Council may enter into a design-build contract under this section.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available under the law.

~~SEC. 100.~~

SEC. 93. Section 19825 of the Health and Safety Code is amended to read:

19825. (a) Every city, county, or city and county, whether general law or chartered, that requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure, shall require the execution of a permit application, in substantially the same form set forth under this subdivision, and require any individual who executes the Owner-Builder Declaration to present documentation sufficient to identify the property owner and, as necessary, verify the signature of the property owner. A city, county, or city and county may require additional information on the permit application.

PERMIT APPLICATION

BUILDING PROJECT IDENTIFICATION

Applicant's Mailing Address

1 _____
 2 Property Location or Address
 3 _____
 4 Property Owner's Name
 5 Property Owner's Telephone No. _____
 6 Licensed Design Professional (Architect or
 7 Engineer) in charge of the project _____
 8 Mailing Address of Licensed Design
 9 Professional _____
 10 _____
 11 License No. _____
 12

13 LICENSED CONTRACTOR'S DECLARATION

14 I hereby affirm under penalty of perjury that I am licensed under provisions
 15 of Chapter 9 (commencing with Section 7000) of Division 3 of the Business
 16 and Professions Code, and my license is in full force and effect.

17 License Class _____ License No. _____
 18 Date _____ Contractor Signature _____
 19

20 OWNER-BUILDER DECLARATION

21 I hereby affirm under penalty of perjury that I am exempt from the Contractors
 22 State License Law for the reason(s) indicated below by the checkmark(s) I
 23 have placed next to the applicable item(s) (Section 7031.5, Business and
 24 Professions Code: Any city or county that requires a permit to construct, alter,
 25 improve, demolish, or repair any structure, prior to its issuance, also requires
 26 the applicant for the permit to file a signed statement that he or she is licensed
 27 pursuant to the provisions of the Contractors State License Law (Chapter 9
 28 (commencing with Section 7000) of Division 3 of the Business and Professions
 29 Code) or that he or she is exempt from licensure and the basis for the alleged
 30 exemption. Any violation of Section 7031.5 by any applicant for a permit
 31 subjects the applicant to a civil penalty of not more than five hundred dollars
 32 (\$500.):

33 () I, as owner of the property, or my employees with wages as their sole
 34 compensation, will do () all of or () portions of the work, and the structure
 35 is not intended or offered for sale (Section 7044, Business and Professions
 36 Code: The Contractors State License Law does not apply to an owner of
 37 property who, through employees' or personal effort, builds or improves the
 38 property, provided that the improvements are not intended or offered for sale.
 39 If, however, the building or improvement is sold within one year of completion,

1 the Owner-Builder will have the burden of proving that it was not built or
2 improved for the purpose of sale.).

3
4 () I, as owner of the property, am exclusively contracting with licensed
5 Contractors to construct the project (Section 7044, Business and Professions
6 Code: The Contractors State License Law does not apply to an owner of
7 property who builds or improves thereon, and who contracts for the projects
8 with a licensed Contractor pursuant to the Contractors State License Law.).

9
10 () I am exempt from licensure under the Contractors State License Law for
11 the following reason:
12 _____
13

14 By my signature below I acknowledge that, except for my personal residence
15 in which I must have resided for at least one year prior to completion of the
16 improvements covered by this permit, I cannot legally sell a structure that I
17 have built as an owner-builder if it has not been constructed in its entirety by
18 licensed contractors. I understand that a copy of the applicable law, Section
19 7044 of the Business and Professions Code, is available upon request when
20 this application is submitted or at the following Web site:

21 <http://www.leginfo.ca.gov/calaw.html>.

22 Date _____
23

24 Signature of Property Owner or Authorized Agent
25 _____
26

27
28 WORKERS' COMPENSATION DECLARATION

29 WARNING: FAILURE TO SECURE WORKERS' COMPENSATION
30 COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER
31 TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED
32 THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF
33 COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706
34 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.
35

36 I hereby affirm under penalty of perjury one of the following declarations:

37 ____ I have and will maintain a certificate of consent to self-insure for workers'
38 compensation, issued by the Director of Industrial Relations as provided for
39 by Section 3700 of the Labor Code, for the performance of the work for which
40 this permit is issued.

1 Policy No. _____

2
3 ____ I have and will maintain workers' compensation insurance, as required
4 by Section 3700 of the Labor Code, for the performance of the work for which
5 this permit is issued. My workers' compensation insurance carrier and policy
6 number are:

7
8 Carrier _____ Policy Number _____ Expiration Date _____
9 Name of Agent _____ Phone # _____

10
11 ____ I certify that, in the performance of the work for which this permit is
12 issued, I shall not employ any person in any manner so as to become subject
13 to the workers' compensation laws of California, and agree that, if I should
14 become subject to the workers' compensation provisions of Section 3700 of
15 the Labor Code, I shall forthwith comply with those provisions.

16 _____
17 Signature of Applicant _____ Date _____

18
19 DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

20
21 I hereby affirm under penalty of perjury that there is a construction lending
22 agency for the performance of the work for which this permit is issued (Section
23 3097, Civil Code).

24 Lender's Name _____

25
26 Lender's Address _____

27
28 By my signature below, I certify to each of the following:

29 I am the property owner or authorized to act on the property owner's behalf.

30 I have read this application and the information I have provided is correct.

31 I agree to comply with all applicable city and county ordinances and state laws
32 relating to building construction.

33 I authorize representatives of this city or county to enter the above-identified
34 property for inspection purposes.

35 Signature of Property Owner or Authorized Agent _____

36 Date _____

37
38 (b) When the Permit Application and the Owner-Builder
39 Declaration have been executed by a person other than the property

owner, prior to issuing the permit, the following shall be completed by the property owner and returned to the agency responsible for issuing the permit:

AUTHORIZATION OF AGENT TO ACT ON PROPERTY OWNER'S
BEHALF

Excluding the Notice to Property Owner, the execution of which I understand is my personal responsibility, I hereby authorize the following person(s) to act as my agent(s) to apply for, sign, and file the documents necessary to obtain an Owner-Builder Permit for my project.

Scope of Construction Project (or Description of Work):

Project Location or Address: _____

Name of Authorized

Agent: _____

Address of Authorized

Agent: _____

Phone Number of Authorized

Agent: _____

I declare under penalty of perjury that I am the property owner for the address listed above and I personally filled out the above information and certify its accuracy.

Property Owner's Signature: _____ Date: _____

Note: A copy of the owner's driver's license, form notarization, or other verification acceptable to the agency is required to be presented when the permit is issued to verify the property owner's signature.

(c) When the Owner-Builder Declaration required under subdivision (a) is executed, a Notice to Property Owner also shall be executed by the property owner in substantially the same form set forth under this section. The Notice to Property Owner shall appear on the official letterhead of the issuer and shall be provided to the applicant by one of the following methods chosen by the permitting authority: regular mail, electronic format, or given

1 directly to the applicant at the time the application for the permit
2 is made. Except as otherwise provided, the Notice to Property
3 Owner pursuant to this section shall be completed and signed by
4 the property owner and returned prior to issuance of the permit.
5 An agent of the owner shall not execute this notice unless the
6 property owner obtains the prior approval of the permitting
7 authority. A permit shall not be issued unless the property owner
8 complies with this section.

10 NOTICE TO PROPERTY OWNER

11 Dear Property Owner:

12 An application for a building permit has been submitted in your name listing
13 yourself as the builder of the property improvements specified at

14 _____.

15 We are providing you with an Owner-Builder Acknowledgment and
16 Information Verification Form to make you aware of your responsibilities and
17 possible risk you may incur by having this permit issued in your name as the
18 Owner-Builder.

19 We will not issue a building permit until you have read, initialed your
20 understanding of each provision, signed, and returned this form to us at our
21 official address indicated. An agent of the owner cannot execute this notice
22 unless you, the property owner, obtain the prior approval of the permitting
23 authority.

25 OWNER'S ACKNOWLEDGMENT AND VERIFICATION OF
26 INFORMATION

28 DIRECTIONS: Read and initial each statement below to signify you understand
29 or verify this information.

31 ____ 1. I understand a frequent practice of unlicensed persons is to have the
32 property owner obtain an "Owner-Builder" building permit that erroneously
33 implies that the property owner is providing his or her own labor and material
34 personally. I, as an Owner-Builder, may be held liable and subject to serious
35 financial risk for any injuries sustained by an unlicensed person and his or her
36 employees while working on my property. My homeowner's insurance may
37 not provide coverage for those injuries. I am willfully acting as an
38 Owner-Builder and am aware of the limits of my insurance coverage for injuries
39 to workers on my property.

1 ____2. I understand building permits are not required to be signed by property
2 owners unless they are *responsible* for the construction and are not hiring a
3 licensed Contractor to assume this responsibility.
4

5 ____3. I understand as an “Owner-Builder” I am the responsible party of record
6 on the permit. I understand that I may protect myself from potential financial
7 risk by hiring a licensed Contractor and having the permit filed in his or her
8 name instead of my own.
9

10 ____4. I understand Contractors are required by law to be licensed and bonded
11 in California and to list their license numbers on permits and contracts.
12

13 ____5. I understand if I employ or otherwise engage any persons, other than
14 California licensed Contractors, and the total value of my construction is at
15 least five hundred dollars (\$500), including labor and materials, I may be
16 considered an “employer” under state and federal law.
17

18 ____6. I understand if I am considered an “employer” under state and federal
19 law, I must register with the state and federal government, withhold payroll
20 taxes, provide workers’ compensation disability insurance, and contribute to
21 unemployment compensation for each “employee.” I also understand my failure
22 to abide by these laws may subject me to serious financial risk.
23

24 ____7. I understand under California Contractors State License Law, an
25 Owner-Builder who builds single-family residential structures cannot legally
26 build them with the intent to offer them for sale, unless *all* work is performed
27 by licensed subcontractors and the number of structures does not exceed four
28 within any calendar year, or all of the work is performed under contract with
29 a licensed general building Contractor.
30

31 ____8. I understand as an Owner-Builder if I sell the property for which this
32 permit is issued, I may be held liable for any financial or personal injuries
33 sustained by any subsequent owner(s) that result from any latent construction
34 defects in the workmanship or materials.
35

36 ____9. I understand I may obtain more information regarding my obligations
37 as an “employer” from the Internal Revenue Service, the United States Small
38 Business Administration, the California Department of Benefit Payments, and
39 the California Division of Industrial Accidents. I also understand I may contact

the California Contractors State License Board (CSLB) at 1-800-321-CSLB (2752) or www.cslb.ca.gov for more information about licensed contractors.

____ 10. I am aware of and consent to an Owner-Builder building permit applied for in my name, and understand that I am the party legally and financially responsible for proposed construction activity at the following address:

____ 11. I agree that, as the party legally and financially responsible for this proposed construction activity, I will abide by all applicable laws and requirements that govern Owner-Builders as well as employers.

____ 12. I agree to notify the issuer of this form immediately of any additions, deletions, or changes to any of the information I have provided on this form.

Licensed contractors are regulated by laws designed to protect the public. If you contract with someone who does not have a license, the Contractors State License Board may be unable to assist you with any financial loss you may sustain as a result of a complaint. Your only remedy against unlicensed Contractors may be in civil court. It is also important for you to understand that if an unlicensed Contractor or employee of that individual or firm is injured while working on your property, you may be held liable for damages. If you obtain a permit as Owner-Builder and wish to hire Contractors, you will be responsible for verifying whether or not those Contractors are properly licensed and the status of their workers' compensation insurance coverage.

Before a building permit can be issued, this form must be completed and signed by the property owner and returned to the agency responsible for issuing the permit.

Note: A copy of the property owner's driver's license, form notarization, or other verification acceptable to the agency is required to be presented when the permit is issued to verify the property owner's signature.

Signature of property owner _____ Date: _____

~~SEC. 101.~~

SEC. 94. Section 25284.1 of the Health and Safety Code is amended to read:

1 25284.1. (a) The board shall take all of the following actions
2 with regard to the prevention of unauthorized releases from
3 petroleum underground storage tanks:

4 (1) On or before June 1, 2000, initiate a field-based research
5 program to quantify the probability and environmental significance
6 of releases from underground storage tank systems meeting the
7 1998 upgrade requirements specified in Section 25284, as that
8 section read on January 1, 2002. The research program shall do
9 all of the following:

10 (A) Seek to identify the source and causes of releases and any
11 deficiencies in leak detection systems.

12 (B) Include single-walled, double-walled, and hybrid tank
13 systems, and avoid bias towards known leaking underground
14 storage tank systems by including a statistically valid sample of
15 all operating underground storage tank systems.

16 (C) Include peer review.

17 (2) Complete the research program on or before June 1, 2002.

18 (3) Use the results of the research program to develop
19 appropriate changes in design, construction, monitoring, operation,
20 and maintenance requirements for tank systems.

21 (4) On or before January 1, 2001, adopt regulations to do all of
22 the following:

23 (A) (i) Require underground storage tank owners, operators,
24 service technicians, installers, and inspectors to meet minimum
25 industry-established training standards and require tank facilities
26 to be operated in a manner consistent with industry-established
27 best management practices.

28 (ii) The board shall implement an outreach effort to educate
29 small business owners or operators on the importance of the
30 regulations adopted pursuant to this subparagraph.

31 (B) (i) Except as provided in clauses (ii) and (iii), require testing
32 of the secondary containment components, including
33 under-dispenser and pump turbine containment components, upon
34 initial installation of a secondary containment component and
35 periodically thereafter, to ensure that the system is capable of
36 containing releases from the primary containment until a release
37 is detected and cleaned up. The board shall consult with the
38 petroleum industry and local government to assess the appropriate
39 test or tests that would comply with this subparagraph.

(ii) Secondary containment components that are part of an emergency generator tank system may be tested using enhanced leak detection, if the test is performed at the frequency specified by the board for testing of secondary containment pursuant to Section 2644.1 of Title 23 of the California Code of Regulations. If the results of the enhanced leak detection test indicate that any component of the emergency generator tank system is leaking liquid or vapor, the owner or operator shall take appropriate actions to correct the leakage, and the owner or operator shall retest the system using enhanced leak detection until the system is no longer leaking liquid or vapor.

(iii) Any tank or piping that is part of an emergency generator tank system and located within a structure as described in paragraph (2) of subdivision (a) of Section 25283.5 is exempt from the secondary containment testing required by clause (i) of subparagraph (B) of paragraph (4), if the owner or operator conducts visual inspections of tank or piping each time the tank system is operated, but no less than monthly, and maintains a log of inspection results for review by the local agency. The provisions of this clause are not applicable if the board adopts regulations pursuant to Section 25299.3 that address the design, construction, upgrade, and monitoring of unburied tanks that are part of an emergency generator tank system.

(C) Require annual testing of release detection sensors and alarms, including under-dispenser and pump turbine containment sensors and alarms. The board shall consult with the petroleum industry and local government to assess the appropriate test or tests that would comply with this subparagraph.

(5) (A) Require an owner or operator of an underground storage tank installed after July 1, 1987, if a tank is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database, to have the underground storage tank system fitted, on or before July 1, 2001, with under-dispenser containment or a spill containment or control system that is approved by the board as capable of containing any accidental release.

(B) Require all underground storage tanks installed after January 1, 2000, to have the tank system fitted with under-dispenser containment or a spill containment or control system to meet the requirements of subparagraph (A).

1 (C) Require an owner or operator of an underground storage
2 tank that is not otherwise subject to subparagraph (A), and not
3 subject to subparagraph (B), to have the underground storage tank
4 system fitted to meet the requirements of subparagraph (A), on or
5 before December 31, 2003.

6 (D) On and after January 1, 2002, no person shall install, repair,
7 maintain, or calibrate monitoring equipment for an underground
8 storage tank unless that person satisfies both of the following
9 requirements:

10 (i) The person has fulfilled training standards identified by the
11 board in regulations adopted pursuant to this section.

12 (ii) The person possesses a tank testing license issued by the
13 board pursuant to Section 25284.4, or a General Engineering
14 Contractor (A) License, Electrical (C-10) Contractor License,
15 Pipeline(C-34) Contractor License, Plumbing (C-36) Contractor
16 License, or Limited Specialty Service Station Equipment and
17 Maintenance (C-61 (D40)) Contractor License issued by the
18 Contractors State License Board.

19 (E) Loans and grants for the installation of under-dispenser
20 containment or a spill containment or control system shall be made
21 available pursuant to Chapter 8.5 (commencing with Section
22 15399.10) of Part 6.7 of Division 3 of Title 2 of the Government
23 Code.

24 (6) Convene a panel of local agency and regional board
25 representatives to review existing enforcement authority and
26 procedures and to advise the board of any changes that are needed
27 to enable local agencies to take adequate enforcement action against
28 owners and operators of noncompliant underground storage tank
29 facilities. The panel shall make its recommendations to the board
30 on or before September 30, 2001. Based on the recommendations
31 of the panel, the board shall also establish effective enforcement
32 procedures in cases involving fraud.

33 (b) On or before July 1, 2001, the Contractors State License
34 Board, in consultation with the board, the petroleum industry, air
35 pollution control districts, air quality management districts, and
36 local government, shall review its requirements for petroleum
37 underground storage tank system installation and removal
38 contractors and make changes, where appropriate, to ensure these
39 contractors are qualified.

1 ~~SEC. 102.~~

2 *SEC. 95.* Section 98.9 of the Labor Code is amended to read:

3 98.9. Upon a finding by the Labor Commissioner that a willful
4 or deliberate violation of any of the provisions of the Labor Code,
5 within the jurisdiction of the Labor Commissioner, has been
6 committed by a person licensed as a contractor pursuant to Chapter
7 9 (commencing with Section 7000) of Division 3 of the Business
8 and Professions Code, in the course of such licensed activity, the
9 Labor Commissioner shall immediately, upon expiration of the
10 period for review specified in Section 98.2, or other applicable
11 section, deliver a certified copy of the finding of the violation to
12 the Registrar of the Contractors State License Board.

13 ~~SEC. 103.~~

14 *SEC. 96.* Section 3099 of the Labor Code is amended to read:

15 3099. (a) The Division of Apprenticeship Standards shall do
16 all of the following:

17 (1) On or before July 1, 2001, establish and validate minimum
18 standards for the competency and training of electricians through
19 a system of testing and certification.

20 (2) On or before March 1, 2000, establish an advisory committee
21 and panels as necessary to carry out the functions under this
22 section. There shall be contractor representation from both joint
23 apprenticeship programs and unilateral nonunion programs in the
24 electrical contracting industry.

25 (3) On or before July 1, 2001, establish fees necessary to
26 implement this section.

27 (4) On or before July 1, 2001, establish and adopt regulations
28 to enforce this section.

29 (5) Issue certification cards to electricians who have been
30 certified pursuant to this section. Fees collected pursuant to
31 paragraph (3) are continuously appropriated in an amount sufficient
32 to pay the costs of issuing certification cards, and that amount may
33 be expended for that purpose by the division.

34 (6) On or before July 1, 2003, establish an electrical certification
35 curriculum committee comprised of representatives of the State
36 Department of Education, the California Community Colleges,
37 and the division. The electrical certification curriculum committee
38 shall do all of the following:

1 (A) Establish written educational curriculum standards for
2 enrollees in training programs established pursuant to Section
3 3099.4.

4 (B) If an educational provider's curriculum meets the written
5 educational curriculum standards established in accordance with
6 subparagraph (A), designate that curriculum as an approved
7 curriculum of classroom instruction.

8 (C) At the committee's discretion, review the approved
9 curriculum of classroom instruction of any designated educational
10 provider. The committee may withdraw its approval of the
11 curriculum if the educational provider does not continue to meet
12 the established written educational curriculum standards.

13 (D) Require each designated educational provider to submit an
14 annual notice to the committee stating whether the educational
15 provider is continuing to offer the approved curriculum of
16 classroom instruction and whether any material changes have been
17 made to the curriculum since its approval.

18 (b) There shall be no discrimination for or against any person
19 based on membership or nonmembership in a union.

20 (c) As used in this section, "electricians" includes all persons
21 who engage in the connection of electrical devices for electrical
22 contractors licensed pursuant to Section 7058 of the Business and
23 Professions Code, specifically, contractors classified as electrical
24 contractors in the Contractors State License Board Rules and
25 Regulations. This section does not apply to electrical connections
26 under 100 volt-amperes. This section does not apply to persons
27 performing work to which Section 7042.5 of the Business and
28 Professions Code is applicable, or to electrical work ordinarily and
29 customarily performed by stationary engineers. This section does
30 not apply to electrical work in connection with the installation,
31 operation, or maintenance of temporary or portable electrical
32 equipment performed by technicians in the theatrical, motion
33 picture production, television, hotel, exhibition, or trade show
34 industries.

35 ~~SEC. 104.~~

36 *SEC. 97.* Section 3099.2 of the Labor Code is amended to read:

37 3099.2. (a) (1) Persons who perform work as electricians shall
38 become certified pursuant to Section 3099 by the deadline specified
39 in this subdivision. After the applicable deadline, uncertified

1 persons shall not perform electrical work for which certification
2 is required.

3 (2) The deadline for certification as a general electrician or
4 fire/life safety technician is January 1, 2006, except that persons
5 who applied for certification prior to January 1, 2006, have until
6 January 1, 2007, to pass the certification examination. The deadline
7 for certification as a residential electrician is January 1, 2007, and
8 the deadline for certification as a voice data video technician or a
9 nonresidential lighting technician is January 1, 2008. The California
10 Apprenticeship Council may extend the certification date for any
11 of these three categories of electricians up to January 1, 2009, if
12 the council concludes that the existing deadline will not provide
13 persons sufficient time to obtain certification, enroll in an
14 apprenticeship or training program, or register pursuant to Section
15 3099.4.

16 (3) For purposes of any continuing education or recertification
17 requirement, individuals who become certified prior to the deadline
18 for certification shall be treated as having become certified on the
19 first anniversary of their certification date that falls after the
20 certification deadline.

21 (b) (1) Certification is required only for those persons who
22 perform work as electricians for contractors licensed as class C-10
23 electrical contractors under the Contractors State License Board
24 Rules and Regulations.

25 (2) Certification is not required for persons performing work
26 for contractors licensed as class C-7 low voltage systems or class
27 C-45 electric sign contractors as long as the work performed is
28 within the scope of the class C-7 or class C-45 license, including
29 incidental and supplemental work as defined in Section 7059 of
30 the Business and Professions Code, and regardless of whether the
31 same contractor is also licensed as a class C-10 contractor.

32 (3) Certification is not required for work performed by a worker
33 on a high-voltage electrical transmission or distribution system
34 owned by a local publicly owned electric utility, as defined in
35 Section 224.3 of the Public Utilities Code; an electrical corporation,
36 as defined in Section 218 of the Public Utilities Code; a person,
37 as defined in Section 205 of the Public Utilities Code; or a
38 corporation, as defined in Section 204 of the Public Utilities Code;
39 when the worker is employed by the utility or a licensed contractor

1 principally engaged in installing or maintaining transmission or
2 distribution systems.

3 (c) The division shall establish separate certifications for general
4 electrician, fire/life safety technician, residential electrician, voice
5 data video technician, and nonresidential lighting technician.

6 (d) Notwithstanding subdivision (a), certification is not required
7 for registered apprentices performing electrical work as part of an
8 apprenticeship program approved under this chapter, a federal
9 Office of Apprenticeship program, or a state apprenticeship
10 program authorized by the federal Office of Apprenticeship. An
11 apprentice who is within one year of completion of his or her term
12 of apprenticeship shall be permitted to take the certification
13 examination and, upon passing the examination, shall be certified
14 immediately upon completion of the term of apprenticeship.

15 (e) Notwithstanding subdivision (a), certification is not required
16 for any person employed pursuant to Section 3099.4.

17 (f) Notwithstanding subdivision (a), certification is not required
18 for a nonresidential lighting trainee (1) who is enrolled in an
19 on-the-job instructional training program approved by the Chief
20 of the Division of Apprenticeship Standards pursuant to Section
21 3090, and (2) who is under the onsite supervision of a
22 nonresidential lighting technician certified pursuant to Section
23 3099.

24 (g) Notwithstanding subdivision (a), the qualifying person for
25 a class C-10 electrical contractor license issued by the Contractors
26 State License Board need not also be certified pursuant to Section
27 3099 to perform electrical work for that licensed contractor or to
28 supervise an uncertified person employed by that licensed
29 contractor pursuant to Section 3099.4.

30 (h) Commencing July 1, 2009, the following shall constitute
31 additional grounds for disciplinary proceedings, including
32 suspension or revocation of the license of a class C-10 electrical
33 contractor pursuant to Article 7 (commencing with Section 7090)
34 of Chapter 9 of Division 3 of the Business and Professions Code:

35 (1) The contractor willfully employs one or more uncertified
36 persons to perform work as electricians in violation of this section.

37 (2) The contractor willfully fails to provide the adequate
38 supervision of uncertified workers required by paragraph (3) of
39 subdivision (a) of Section 3099.4.

(3) The contractor willfully fails to provide adequate supervision of apprentices performing work pursuant to subdivision (d).

(i) The Chief of the Division of Apprenticeship Standards shall develop a process for referring cases to the Contractors' State License Board when it has been determined that a violation of this section has likely occurred. On or before July 1, 2009, the chief shall prepare and execute a memorandum of understanding with the Registrar of Contractors in furtherance of this section.

(j) Upon receipt of a referral by the Chief of the Division of Apprenticeship Standards alleging a violation under this section, the Registrar of Contractors shall open an investigation. Any disciplinary action against the licensee shall be initiated within 60 days of the receipt of the referral. The Registrar of Contractors may initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from the Chief of the Division of Apprenticeship Standards alleging a violation under this section. Failure of the employer or employee to provide evidence of certification or trainee status shall create a rebuttable presumption of violation of this provision.

(k) For the purposes of this section, "electricians" has the same meaning as the definition set forth in Section 3099.

~~SEC. 105.~~

SEC. 98. Section 6652 of the Labor Code is amended to read:

6652. The division shall provide the Contractors State License Board with a certified copy of every notice of civil penalty deemed to be a final order pursuant to Section 6601 or after the exhaustion of all other review procedures pursuant to Chapter 7 (commencing with Section 6600) when both of the following have occurred:

(a) The employer served with the notice of civil penalty is, or is thought to be, a licensee licensed by the Contractors State License Board.

(b) The employer referred to in subdivision (a) has failed to pay the civil penalty after a period of 60 days following that employer's receipt of the notice of civil penalty.

(c) When the employer has paid the civil penalty referenced in the certified copy of notice of civil penalty that was provided to the Contractors State License Board, including all interest owed thereon, then the division shall provide to the employer who was the subject of the certified copy of notice a written confirmation

1 or receipt stating that the employer has paid the amount owed that
2 was the subject of the certified notice provided to the board.

3 ~~SEC. 106.~~

4 *SEC. 99.* Section 396 of the Penal Code is amended to read:

5 396. (a) The Legislature hereby finds that during emergencies
6 and major disasters, including, but not limited to, earthquakes,
7 fires, floods, or civil disturbances, some merchants have taken
8 unfair advantage of consumers by greatly increasing prices for
9 essential consumer goods and services. While the pricing of
10 consumer goods and services is generally best left to the
11 marketplace under ordinary conditions, when a declared state of
12 emergency results in abnormal disruptions of the market, the public
13 interest requires that excessive and unjustified increases in the
14 prices of essential consumer goods and services be prohibited. It
15 is the intent of the Legislature in enacting this act to protect citizens
16 from excessive and unjustified increases in the prices charged
17 during or shortly after a declared state of emergency for goods and
18 services that are vital and necessary for the health, safety, and
19 welfare of consumers. Further it is the intent of the Legislature
20 that this section be liberally construed so that its beneficial purposes
21 may be served.

22 (b) Upon the proclamation of a state of emergency resulting
23 from an earthquake, flood, fire, riot, storm, or natural or manmade
24 disaster declared by the President of the United States or the
25 Governor, or upon the declaration of a local emergency resulting
26 from an earthquake, flood, fire, riot, storm, or natural or manmade
27 disaster by the executive officer of any county, city, or city and
28 county, and for a period of 30 days following that declaration, it
29 is unlawful for a person, contractor, business, or other entity to
30 sell or offer to sell any consumer food items or goods, goods or
31 services used for emergency cleanup, emergency supplies, medical
32 supplies, home heating oil, building materials, housing,
33 transportation, freight, and storage services, or gasoline or other
34 motor fuels for a price of more than 10 percent above the price
35 charged by that person for those goods or services immediately
36 prior to the proclamation of emergency. However, a greater price
37 increase is not unlawful if that person can prove that the increase
38 in price was directly attributable to additional costs imposed on it
39 by the supplier of the goods, or directly attributable to additional
40 costs for labor or materials used to provide the services, provided

1 that in those situations where the increase in price is attributable
2 to additional costs imposed by the seller's supplier or additional
3 costs of providing the good or service during the state of
4 emergency, the price represents no more than 10 percent above
5 the total of the cost to the seller plus the markup customarily
6 applied by the seller for that good or service in the usual course
7 of business immediately prior to the onset of the state of
8 emergency.

9 (c) Upon the proclamation of a state of emergency resulting
10 from an earthquake, flood, fire, riot, or storm declared by the
11 President of the United States or the Governor, or upon the
12 declaration of a local emergency resulting from an earthquake,
13 flood, fire, riot, or storm by the executive officer of any county,
14 city, or city and county, and for a period of 180 days following
15 that declaration, it is unlawful for a contractor to sell or offer to
16 sell any repair or reconstruction services or any services used in
17 emergency cleanup for a price of more than 10 percent above the
18 price charged by that person for those services immediately prior
19 to the proclamation of emergency. However, a greater price
20 increase is not unlawful if that person can prove that the increase
21 in price was directly attributable to additional costs imposed on it
22 by the supplier of the goods, or directly attributable to additional
23 costs for labor or materials used to provide the services, provided
24 that in those situations where the increase in price is attributable
25 to the additional costs imposed by the contractor's supplier or
26 additional costs of providing the service during the state of
27 emergency, the price represents no more than 10 percent above
28 the total of the cost to the contractor plus the markup customarily
29 applied by the contractor for that good or service in the usual course
30 of business immediately prior to the onset of the state of
31 emergency.

32 (d) Upon the proclamation of a state of emergency resulting
33 from an earthquake, flood, fire, riot, storm, or other natural disaster
34 declared by the President of the United States or the Governor, or
35 upon the declaration of a local emergency resulting from an
36 earthquake, flood, fire, riot, storm, or other natural disaster by the
37 executive officer of any county, city, or city and county, and for
38 a period of 30 days following that proclamation or declaration, it
39 is unlawful for an owner or operator of a hotel or motel to increase
40 the hotel or motel's regular rates, as advertised immediately prior

1 to the proclamation or declaration of emergency, by more than 10
2 percent. However, a greater price increase is not unlawful if the
3 owner or operator can prove that the increase in price is directly
4 attributable to additional costs imposed on it for goods or labor
5 used in its business, to seasonal adjustments in rates that are
6 regularly scheduled, or to previously contracted rates.

7 (e) The provisions of this section may be extended for additional
8 30-day periods by a local legislative body or the California
9 Legislature, if deemed necessary to protect the lives, property, or
10 welfare of the citizens.

11 (f) A violation of this section is a misdemeanor punishable by
12 imprisonment in a county jail for a period not exceeding one year,
13 or by a fine of not more than ten thousand dollars (\$10,000), or
14 by both that fine and imprisonment.

15 (g) A violation of this section shall constitute an unlawful
16 business practice and an act of unfair competition within the
17 meaning of Section 17200 of the Business and Professions Code.
18 The remedies and penalties provided by this section are cumulative
19 to each other, the remedies under Section 17200 of the Business
20 and Professions Code, and the remedies or penalties available
21 under all other laws of this state.

22 (h) For the purposes of this section, the following terms have
23 the following meanings:

24 (1) "State of emergency" means a natural or manmade disaster
25 or emergency resulting from an earthquake, flood, fire, riot, or
26 storm for which a state of emergency has been declared by the
27 President of the United States or the Governor of California.

28 (2) "Local emergency" means a natural or manmade disaster
29 or emergency resulting from an earthquake, flood, fire, riot, or
30 storm for which a local emergency has been declared by the
31 executive officer or governing body of any city or county in
32 California.

33 (3) "Consumer food item" means any article that is used or
34 intended for use for food, drink, confection, or condiment by a
35 person or animal.

36 (4) "Repair or reconstruction services" means services
37 performed by any person who is required to be licensed under the
38 Contractors State License Law (Chapter 9 (commencing with
39 Section 7000) of Division 3 of the Business and Professions Code),

1 for repairs to residential or commercial property of any type that
2 is damaged as a result of a disaster.

3 (5) “Emergency supplies” includes, but is not limited to, water,
4 flashlights, radios, batteries, candles, blankets, soaps, diapers,
5 temporary shelters, tape, toiletries, plywood, nails, and hammers.

6 (6) “Medical supplies” includes, but is not limited to,
7 prescription and nonprescription medications, bandages, gauze,
8 isopropyl alcohol, and antibacterial products.

9 (7) “Building materials” means lumber, construction tools,
10 windows, and anything else used in the building or rebuilding of
11 property.

12 (8) “Gasoline” means any fuel used to power any motor vehicle
13 or power tool.

14 (9) “Transportation, freight, and storage services” means any
15 service that is performed by any company that contracts to move,
16 store, or transport personal or business property or rents equipment
17 for those purposes.

18 (10) “Housing” means any rental housing leased on a
19 month-to-month term.

20 (11) “Goods” has the same meaning as defined in subdivision
21 (c) of Section 1689.5 of the Civil Code.

22 (i) Nothing in this section shall preempt any local ordinance
23 prohibiting the same or similar conduct or imposing a more severe
24 penalty for the same conduct prohibited by this section.

25 (j) A business offering an item for sale at a reduced price
26 immediately prior to the proclamation of the emergency may use
27 the price at which it usually sells the item to calculate the price
28 pursuant to subdivision (b) or (c).

29 ~~SEC. 107.~~

30 *SEC. 100.* Section 830.3 of the Penal Code is amended to read:

31 830.3. The following persons are peace officers whose authority
32 extends to any place in the state for the purpose of performing
33 their primary duty or when making an arrest pursuant to Section
34 836 as to any public offense with respect to which there is
35 immediate danger to person or property, or of the escape of the
36 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
37 the Government Code. These peace officers may carry firearms
38 only if authorized and under those terms and conditions as specified
39 by their employing agencies:

1 (a) Persons employed by the Division of Investigation of the
2 Department of Consumer Affairs and investigators of the Medical
3 Board of California and the Board of Dental Examiners, who are
4 designated by the Director of Consumer Affairs, provided that the
5 primary duty of these peace officers shall be the enforcement of
6 the law as that duty is set forth in Section 160 of the Business and
7 Professions Code.

8 (b) Voluntary fire wardens designated by the Director of
9 Forestry and Fire Protection pursuant to Section 4156 of the Public
10 Resources Code, provided that the primary duty of these peace
11 officers shall be the enforcement of the law as that duty is set forth
12 in Section 4156 of that code.

13 (c) Employees of the Department of Motor Vehicles designated
14 in Section 1655 of the Vehicle Code, provided that the primary
15 duty of these peace officers shall be the enforcement of the law as
16 that duty is set forth in Section 1655 of that code.

17 (d) Investigators of the California Horse Racing Board
18 designated by the board, provided that the primary duty of these
19 peace officers shall be the enforcement of Chapter 4 (commencing
20 with Section 19400) of Division 8 of the Business and Professions
21 Code and Chapter 10 (commencing with Section 330) of Title 9
22 of Part 1 of this code.

23 (e) The State Fire Marshal and assistant or deputy state fire
24 marshals appointed pursuant to Section 13103 of the Health and
25 Safety Code, provided that the primary duty of these peace officers
26 shall be the enforcement of the law as that duty is set forth in
27 Section 13104 of that code.

28 (f) Inspectors of the food and drug section designated by the
29 chief pursuant to subdivision (a) of Section 106500 of the Health
30 and Safety Code, provided that the primary duty of these peace
31 officers shall be the enforcement of the law as that duty is set forth
32 in Section 106500 of that code.

33 (g) All investigators of the Division of Labor Standards
34 Enforcement designated by the Labor Commissioner, provided
35 that the primary duty of these peace officers shall be the
36 enforcement of the law as prescribed in Section 95 of the Labor
37 Code.

38 (h) All investigators of the State Departments of Health Care
39 Services, Public Health, Social Services, Mental Health, and
40 Alcohol and Drug Programs, the Department of Toxic Substances

1 Control, the Office of Statewide Health Planning and Development,
2 and the Public Employees' Retirement System, provided that the
3 primary duty of these peace officers shall be the enforcement of
4 the law relating to the duties of his or her department or office.
5 Notwithstanding any other provision of law, investigators of the
6 Public Employees' Retirement System shall not carry firearms.

7 (i) The Chief of the Bureau of Fraudulent Claims of the
8 Department of Insurance and those investigators designated by the
9 chief, provided that the primary duty of those investigators shall
10 be the enforcement of Section 550.

11 (j) Employees of the Department of Housing and Community
12 Development designated under Section 18023 of the Health and
13 Safety Code, provided that the primary duty of these peace officers
14 shall be the enforcement of the law as that duty is set forth in
15 Section 18023 of that code.

16 (k) Investigators of the office of the Controller, provided that
17 the primary duty of these investigators shall be the enforcement
18 of the law relating to the duties of that office. Notwithstanding any
19 other law, except as authorized by the Controller, the peace officers
20 designated pursuant to this subdivision shall not carry firearms.

21 (l) Investigators of the Department of Corporations designated
22 by the Commissioner of Corporations, provided that the primary
23 duty of these investigators shall be the enforcement of the
24 provisions of law administered by the Department of Corporations.
25 Notwithstanding any other provision of law, the peace officers
26 designated pursuant to this subdivision shall not carry firearms.

27 (m) Persons employed by the Contractors State License Board
28 designated by the Director of Consumer Affairs pursuant to Section
29 7011.5 of the Business and Professions Code, provided that the
30 primary duty of these persons shall be the enforcement of the law
31 as that duty is set forth in Section 7011.5, and in Chapter 9
32 (commencing with Section 7000) of Division 3, of that code. The
33 Director of Consumer Affairs may designate as peace officers not
34 more than three persons who shall at the time of their designation
35 be assigned to the special investigations unit of the board.
36 Notwithstanding any other provision of law, the persons designated
37 pursuant to this subdivision shall not carry firearms.

38 (n) The Chief and coordinators of the Law Enforcement Division
39 of the Office of Emergency Services.

1 (o) Investigators of the office of the Secretary of State designated
2 by the Secretary of State, provided that the primary duty of these
3 peace officers shall be the enforcement of the law as prescribed
4 in Chapter 3 (commencing with Section 8200) of Division 1 of
5 Title 2 of, and Section 12172.5 of, the Government Code.
6 Notwithstanding any other provision of law, the peace officers
7 designated pursuant to this subdivision shall not carry firearms.

8 (p) The Deputy Director for Security designated by Section
9 8880.38 of the Government Code, and all lottery security personnel
10 assigned to the California State Lottery and designated by the
11 director, provided that the primary duty of any of those peace
12 officers shall be the enforcement of the laws related to assuring
13 the integrity, honesty, and fairness of the operation and
14 administration of the California State Lottery.

15 (q) Investigators employed by the Investigation Division of the
16 Employment Development Department designated by the director
17 of the department, provided that the primary duty of those peace
18 officers shall be the enforcement of the law as that duty is set forth
19 in Section 317 of the Unemployment Insurance Code.

20 Notwithstanding any other provision of law, the peace officers
21 designated pursuant to this subdivision shall not carry firearms.

22 (r) The chief and assistant chief of museum security and safety
23 of the California Science Center, as designated by the executive
24 director pursuant to Section 4108 of the Food and Agricultural
25 Code, provided that the primary duty of those peace officers shall
26 be the enforcement of the law as that duty is set forth in Section
27 4108 of the Food and Agricultural Code.

28 (s) Employees of the Franchise Tax Board designated by the
29 board, provided that the primary duty of these peace officers shall
30 be the enforcement of the law as set forth in Chapter 9
31 (commencing with Section 19701) of Part 10.2 of Division 2 of
32 the Revenue and Taxation Code.

33 (t) Notwithstanding any other provision of this section, a peace
34 officer authorized by this section shall not be authorized to carry
35 firearms by his or her employing agency until that agency has
36 adopted a policy on the use of deadly force by those peace officers,
37 and until those peace officers have been instructed in the employing
38 agency's policy on the use of deadly force.

1 Every peace officer authorized pursuant to this section to carry
2 firearms by his or her employing agency shall qualify in the use
3 of the firearms at least every six months.

4 (u) Investigators of the Department of Managed Health Care
5 designated by the Director of the Department of Managed Health
6 Care, provided that the primary duty of these investigators shall
7 be the enforcement of the provisions of laws administered by the
8 Director of the Department of Managed Health Care.
9 Notwithstanding any other provision of law, the peace officers
10 designated pursuant to this subdivision shall not carry firearms.

11 (v) The Chief, Deputy Chief, supervising investigators, and
12 investigators of the Office of Protective Services of the State
13 Department of Developmental Services, provided that the primary
14 duty of each of those persons shall be the enforcement of the law
15 relating to the duties of his or her department or office.

16 ~~SEC. 108.~~

17 *SEC. 101.* Section 6100 of the Public Contract Code is amended
18 to read:

19 6100. (a) Any state agency or department, as defined in Section
20 10357, which is subject to this code, shall, prior to awarding a
21 contract for work to be performed by a contractor, as defined by
22 Section 7026 of the Business and Professions Code, verify with
23 the Contractors State License Board that the person seeking the
24 contract is licensed in a classification appropriate to the work to
25 be undertaken. Verification as required by this section need only
26 be made once every two years with respect to the same contractor.

27 (b) In lieu of the verification, the state entity may require the
28 person seeking the contract to present his or her pocket license or
29 certificate of licensure and provide a signed statement which
30 swears, under penalty of perjury, that the pocket license or
31 certificate of licensure presented is his or hers, is current and valid,
32 and is in a classification appropriate to the work to be undertaken.

33 ~~SEC. 109.~~

34 *SEC. 102.* Section 6805 of the Public Contract Code is amended
35 to read:

36 6805. The procurement process for the design-build projects
37 shall progress as follows:

38 (a) The transportation entity shall prepare a set of documents
39 setting forth the scope and estimated price of the project. The
40 documents may include, but need not be limited to, the size, type,

1 and desired design character of the project, performance
2 specifications covering the quality of materials, equipment,
3 workmanship, preliminary plans, and any other information deemed
4 necessary to describe adequately the transportation entity's needs.
5 The performance specifications and any plans shall be prepared
6 by a design professional who is duly licensed and registered in
7 California.

8 (b) Based on the documents prepared as described in subdivision
9 (a), the transportation entity shall prepare a request for proposals
10 that invites interested parties to submit competitive sealed proposals
11 in the manner prescribed by the transportation entity. The request
12 for proposals shall include, but need not be limited to, the following
13 elements:

14 (1) Identification of the basic scope and needs of the project or
15 contract, the estimated cost of the project, the methodology that
16 will be used by the transportation entity to evaluate proposals,
17 whether the contract will be awarded on the basis of the lowest
18 responsible bid or on best value, and any other information deemed
19 necessary by the transportation entity to inform interested parties
20 of the contracting opportunity.

21 (2) Significant factors that the transportation entity reasonably
22 expects to consider in evaluating proposals, including, but not
23 limited to, cost or price and all nonprice-related factors.

24 (3) The relative importance or the weight assigned to each of
25 the factors identified in the request for proposals.

26 (4) For transportation entities authorized to utilize best value
27 as a selection method, the transportation entity reserves the right
28 to request proposal revisions and hold discussions and negotiations
29 with responsive bidders and shall so specify in the request for
30 proposals and shall publish separately or incorporate into the
31 request for proposals applicable rules and procedures to be
32 observed by the transportation entity to ensure that any discussions
33 or negotiations are conducted in good faith.

34 (c) Based on the documents prepared under subdivision (a), the
35 transportation entity shall prepare and issue a request for
36 qualifications in order to prequalify the design-build entities whose
37 proposals shall be evaluated for final selection. The request for
38 qualifications shall include, but need not be limited to, the
39 following elements:

1 (1) Identification of the basic scope and needs of the project or
2 contract, the expected cost range, the methodology that will be
3 used by the transportation entity to evaluate proposals, the
4 procedure for final selection of the design-build entity, and any
5 other information deemed necessary by the transportation entity
6 to inform interested parties of the contracting opportunity.

7 (2) (A) Significant factors that the transportation entity
8 reasonably expects to consider in evaluating qualifications,
9 including technical design and construction expertise, skilled labor
10 force availability, and all other nonprice-related factors.

11 (B) For purposes of subparagraph (A), skilled labor force
12 availability shall be determined by the existence of an agreement
13 with a registered apprenticeship program, approved by the
14 California Apprenticeship Council, that has graduated at least one
15 apprentice in each of the preceding five years. This graduation
16 requirement shall not apply to programs providing apprenticeship
17 training for any craft that was first deemed by the Department of
18 Labor and the Department of Industrial Relations to be an
19 apprenticeable craft within the five years prior to the effective date
20 of this article.

21 (3) A standard form request for statements of qualifications
22 prepared by the transportation entity. In preparing the standard
23 form, the transportation entity may consult with the construction
24 industry, the building trades and surety industry, and other public
25 agencies interested in using the authorization provided by this
26 chapter. The standard form shall require information including,
27 but not limited to, all of the following:

28 (A) If the design-build entity is a partnership, limited
29 partnership, joint venture, or other association, a listing of all of
30 the partners, general partners, or association members known at
31 the time of statement of qualification submission who will
32 participate in the design-build contract.

33 (B) Evidence that the members of the design-build entity have
34 completed, or demonstrated the experience, competency, capability,
35 and capacity to complete projects of similar size, scope, or
36 complexity, and that proposed key personnel have sufficient
37 experience and training to competently manage and complete the
38 design and construction of the project, and a financial statement
39 that assures the transportation entity that the design-build entity
40 has the capacity to complete the project.

1 (C) The licenses, registration, and credentials required to design
2 and construct the project, including, but not limited to, information
3 on the revocation or suspension of any license, credential, or
4 registration.

5 (D) Evidence that establishes that the design-build entity has
6 the capacity to obtain all required payment and performance
7 bonding, liability insurance, and errors and omissions insurance.

8 (E) Information concerning workers' compensation experience
9 history and a worker safety program.

10 (F) A full disclosure regarding all of the following that are
11 applicable:

12 (i) Any serious or willful violation of Part 1 (commencing with
13 Section 6300) of Division 5 of the Labor Code or the federal
14 Occupational Safety and Health Act of 1970 (Public Law 91-596),
15 settled against any member of the design-build entity.

16 (ii) Any debarment, disqualification, or removal from a federal,
17 state, or local government public works project.

18 (iii) Any instance where the design-build entity, or its owners,
19 officers, or managing employees submitted a bid on a public works
20 project and were found to be nonresponsive or were found by an
21 awarding body not to be a responsible bidder.

22 (iv) Any instance where the design-build entity, or its owners,
23 officers, or managing employees defaulted on a construction
24 contract.

25 (v) Any violations of the Contractors State License Law, as
26 described in Chapter 9 (commencing with Section 7000) of
27 Division 3 of the Business and Professions Code, including alleged
28 violations of federal or state law regarding the payment of wages,
29 benefits, apprenticeship requirements, or personal income tax
30 withholding, or Federal Insurance Contribution Act (FICA)
31 withholding requirements settled against any member of the
32 design-build entity.

33 (vi) Any bankruptcy or receivership of any member of the
34 design-build entity, including, but not limited to, information
35 concerning any work completed by a surety.

36 (vii) Any settled adverse claims, disputes, or lawsuits between
37 the owner of a public works project and any member of the
38 design-build entity during the five years preceding submission of
39 a bid under this article, in which the claim, settlement, or judgment
40 exceeds fifty thousand dollars (\$50,000). Information shall also

1 be provided concerning any work completed by a surety during
2 this five-year period.

3 (G) If the proposed design-build entity is a partnership, limited
4 partnership, joint-venture, or other association, a copy of the
5 organizational documents or agreement committing to form the
6 organization, and a statement that all general partners, joint venture
7 members, or other association members agree to be fully liable for
8 the performance under the design-build contract.

9 (H) An acceptable safety record. A bidder's safety record shall
10 be deemed acceptable if its experience modification rate for the
11 most recent three-year period is an average of 1.00 or less, and its
12 average total recordable injury/illness rate and average lost work
13 rate for the most recent three-year period does not exceed the
14 applicable statistical standards for its business category or if the
15 bidder is a party to an alternative dispute resolution system as
16 provided for in Section 3201.5 of the Labor Code.

17 (4) The information required under this subdivision shall be
18 verified under oath by the design-build entity and its members in
19 the manner in which civil pleadings in civil actions are verified.
20 Information required under this subdivision that is not a public
21 record under the California Public Records Act, as described in
22 Chapter 3.5 (commencing with Section 6250) of Division 7 of
23 Title 1 of the Government Code, shall not be open to public
24 inspection.

25 (d) For those projects utilizing low bid as the final selection
26 method, the competitive bidding process shall result in lump-sum
27 bids by the prequalified design-build entities. Awards shall be
28 made to the lowest responsible bidder.

29 (e) For those projects utilizing best value as a selection method,
30 the design-build competition shall progress as follows:

31 (1) Competitive proposals shall be evaluated by using only the
32 criteria and selection procedures specifically identified in the
33 request for proposals. However, the following minimum factors
34 shall be weighted as deemed appropriate by the contracting
35 transportation entity:

36 (A) Price.

37 (B) Technical design and construction expertise.

38 (C) Life-cycle costs over 15 years or more.

39 (2) Pursuant to subdivision (b), the transportation entity may
40 hold discussions or negotiations with responsive bidders using the

1 process articulated in the transportation entity's request for
2 proposals.

3 (3) When the evaluation is complete, the top three responsive
4 bidders shall be ranked sequentially based on a determination of
5 value provided.

6 (4) The award of the contract shall be made to the responsible
7 bidder whose proposal is determined by the transportation entity
8 to have offered the best value to the public.

9 (5) Notwithstanding any other provision of this code, upon
10 issuance of a contract award, the transportation entity shall publicly
11 announce its award, identifying the contractor to whom the award
12 is made, along with a written decision supporting its contract award
13 and stating the basis of the award. The notice of award shall also
14 include the transportation entity's second- and third-ranked
15 design-build entities.

16 (6) The written decision supporting the transportation entity's
17 contract award, described in paragraph (5), and the contract file
18 shall provide sufficient information to satisfy an external audit.

19 ~~SEC. 110.~~

20 *SEC. 103.* Section 10262 of the Public Contract Code is
21 amended to read:

22 10262. The contractor shall pay to his or her subcontractors,
23 within 10 days of receipt of each progress payment, the respective
24 amounts allowed the contractor on account of the work performed
25 by his or her subcontractors, to the extent of each subcontractor's
26 interest therein. The payments to subcontractors shall be based on
27 estimates made pursuant to Section 10261. Any diversion by the
28 contractor of payments received for prosecution of a contract, or
29 failure to reasonably account for the application or use of the
30 payments constitutes ground for actions proscribed in Section
31 10253, in addition to disciplinary action by the Contractors State
32 License Board. The subcontractor shall notify, in writing, the
33 Contractors State License Board and the department of any
34 payment less than the amount or percentage approved for the class
35 or item of work as set forth in Section 10261.

36 ~~SEC. 111.~~

37 *SEC. 104.* Section 10762 of the Public Contract Code is
38 amended to read:

39 10762. In all projects for road, street, and bridge work where
40 federal funds are involved and where a bidder is required to be

1 and has been prequalified pursuant to Sections 10760 and 10761,
2 no bid submitted or contract thereafter awarded shall be invalidated
3 by the failure of the bidder or contractor to be properly licensed
4 in accordance with the laws of this state, nor shall any such
5 contractor be denied payment under any such contract because of
6 such failure; provided, however, that the first payment for work
7 or material under such contract shall not be made by the Controller
8 unless and until the Registrar of Contractors certifies to him that
9 the records of the Contractors State License Board indicate that
10 such contractor was or became properly licensed between the time
11 of bid opening and the making of the certification. Any bidder or
12 contractor not so licensed shall be subject to all legal penalties
13 imposed by such laws, including, but not limited to, any appropriate
14 disciplinary action by the Contractors State License Board, and
15 the trustees shall include a statement to that effect in the standard
16 form of prequalification questionnaire and financial statement.

17 ~~SEC. 112.~~

18 *SEC. 105.* Section 20103.5 of the Public Contract Code is
19 amended to read:

20 20103.5. In all contracts subject to this part where federal funds
21 are involved, no bid submitted shall be invalidated by the failure
22 of the bidder to be licensed in accordance with the laws of this
23 state. However, at the time the contract is awarded, the contractor
24 shall be properly licensed in accordance with the laws of this state.
25 The first payment for work or material under any contract shall
26 not be made unless and until the Registrar of Contractors verifies
27 to the agency that the records of the Contractors State License
28 Board indicate that the contractor was properly licensed at the time
29 the contract was awarded. Any bidder or contractor not so licensed
30 shall be subject to all legal penalties imposed by law, including,
31 but not limited to, any appropriate disciplinary action by the
32 Contractors State License Board. The agency shall include a
33 statement to that effect in the standard form of prequalification
34 questionnaire and financial statement. Failure of the bidder to
35 obtain proper and adequate licensing for an award of a contract
36 shall constitute a failure to execute the contract and shall result in
37 the forfeiture of the security of the bidder.

38 ~~SEC. 113.~~

39 *SEC. 106.* Section 20175.2 of the Public Contract Code is
40 amended to read:

1 20175.2. (a) (1) A city, with approval of the appropriate city
2 council, may utilize an alternative procedure for bidding on
3 building construction projects in the city in excess of one million
4 dollars (\$1,000,000), except as provided in subdivision (p).

5 (2) Cities may award the project using either the lowest
6 responsible bidder or by best value.

7 (b) (1) It is the intent of the Legislature to enable cities to utilize
8 cost-effective options for building and modernizing public
9 facilities. The Legislature also recognizes the national trend,
10 including authorization in California, to allow public entities to
11 utilize design-build contracts as a project delivery method. It is
12 not the intent of the Legislature to authorize this procedure for
13 transportation facilities, including, but not limited to, roads and
14 bridges.

15 (2) The Legislature also finds and declares that utilizing a
16 design-build contract requires a clear understanding of the roles
17 and responsibilities of each participant in the design-build process.
18 The Legislature also finds that the cost-effective benefits to cities
19 are achieved by shifting the liability and risk for cost containment
20 and project completion to the design-build entity.

21 (3) It is the intent of the Legislature to provide an alternative
22 and optional procedure for bidding and building construction
23 projects for cities.

24 (4) The design-build approach may be used, but is not limited
25 to use, when it is anticipated that it will: reduce project cost,
26 expedite project completion, or provide design features not
27 achievable through the design-bid-build method.

28 (5) (A) For contracts awarded prior to the effective date of
29 either the regulations adopted by the Department of Industrial
30 Relations pursuant to subdivision (b) of Section 1771.55 of the
31 Labor Code or the fees established by the department pursuant to
32 subparagraph (B), if a city council elects to proceed under this
33 section, the city council shall establish and enforce, for design-build
34 projects, a labor compliance program containing the requirements
35 outlined in Section 1771.5 of the Labor Code, or it shall contract
36 with a third party to operate a labor compliance program containing
37 the requirements outlined in Section 1771.5 of the Labor Code.
38 This requirement shall not apply to any project where the city or
39 the design-build entity has entered into any collective bargaining

1 agreement or agreements that bind all of the contractors performing
2 work on the projects.

3 (B) For contracts awarded on or after the effective date of both
4 the regulations adopted by the Department of Industrial Relations
5 pursuant to subdivision (b) of Section 1771.55 of the Labor Code
6 and the fees established by the department pursuant to this
7 subparagraph, the city council shall pay a fee to the department,
8 in an amount that the department shall establish, and as it may
9 from time to time amend, sufficient to support the department's
10 costs in ensuring compliance with and enforcing prevailing wage
11 requirements on the project, and labor compliance enforcement as
12 set forth in subdivision (b) of Section 1771.55. All fees collected
13 pursuant to this paragraph shall be deposited in the State Public
14 Works Enforcement Fund created by Section 1771.3 of the Labor
15 Code, and shall be used only for enforcement of prevailing wage
16 requirements on those projects.

17 (C) The Department of Industrial Relations may waive the fee
18 set forth in subparagraph (2) if the city council has previously been
19 granted approval by the director to initiate and operate a labor
20 compliance program on its projects and requests to continue to
21 operate that labor compliance program on its projects in lieu of
22 labor compliance by the department pursuant to subdivision (b)
23 of Section 1771.55. The fee shall not be waived for the city council
24 if it contracts with a third party to initiate and enforce labor
25 compliance programs on its projects.

26 (c) As used in this section:

27 (1) "Best value" means a value determined by objectives relative
28 to price, features, functions, and life-cycle costs.

29 (2) "Design-build" means a procurement process in which both
30 the design and construction of a project are procured from a single
31 entity.

32 (3) "Design-build entity" means a partnership, corporation, or
33 other legal entity that is able to provide appropriately licensed
34 contracting, architectural, and engineering services, as needed,
35 pursuant to a design-build contract.

36 (4) "Project" means the construction of a building and
37 improvements directly related to the construction of a building,
38 but does not include streets and highways, public rail transit, or
39 water resource facilities and infrastructure.

1 (d) Design-build projects shall progress in a four-step process,
2 as follows:

3 (1) (A) The city shall prepare a set of documents setting forth
4 the scope of the project. The documents may include, but are not
5 limited to, the size, type, and desired design character of the
6 buildings and site, performance specifications covering the quality
7 of materials, equipment, and workmanship, preliminary plans or
8 building layouts, or any other information deemed necessary to
9 describe adequately the city's needs. The performance
10 specifications and any plans shall be prepared by a design
11 professional who is duly licensed and registered in California.

12 (B) Any architect or engineer retained by the city to assist in
13 the development of the project-specific documents shall not be
14 eligible to participate in the preparation of a bid with any
15 design-build entity for that project.

16 (2) (A) Based on the documents prepared in paragraph (1), the
17 city shall prepare a request for proposals that invites interested
18 parties to submit competitive sealed proposals in the manner
19 prescribed by the city. The request for proposals shall include, but
20 is not limited to, the following elements:

21 (i) Identification of the basic scope and needs of the project or
22 contract, the expected cost range, and other information deemed
23 necessary by the city to inform interested parties of the contracting
24 opportunity, to include the methodology that will be used by the
25 city to evaluate proposals, and specifically if the contract will be
26 awarded to the lowest responsible bidder.

27 (ii) Significant factors which the city reasonably expects to
28 consider in evaluating proposals, including cost or price and all
29 nonprice related factors.

30 (iii) The relative importance of weight assigned to each of the
31 factors identified in the request for proposals.

32 (B) With respect to clause (iii) of subparagraph (A), if a
33 nonweighted system is used, the agency shall specifically disclose
34 whether all evaluation factors, other than cost or price, when
35 combined are:

36 (i) Significantly more important than cost or price.

37 (ii) Approximately equal in importance to cost or price.

38 (iii) Significantly less important than cost or price.

39 (C) If the city chooses to reserve the right to hold discussions
40 or negotiations with responsive bidders, it shall so specify in the

1 request for proposal and shall publish separately, or incorporate
2 into the request for proposal, applicable rules and procedures to
3 be observed by the city to ensure that any discussions or
4 negotiations are conducted in good faith.

5 (3) (A) The city shall establish a procedure to prequalify
6 design-build entities using a standard questionnaire developed by
7 the city. In preparing the questionnaire, the city shall consult with
8 the construction industry, including representatives of the building
9 trades and surety industry. This questionnaire shall require
10 information including, but not limited to, all of the following:

11 (i) If the design-build entity is a partnership, limited partnership,
12 or other association, a listing of all of the partners, general partners,
13 or association members known at the time of bid submission who
14 will participate in the design-build contract, including, but not
15 limited to, mechanical subcontractors.

16 (ii) Evidence that the members of the design-build entity have
17 completed, or demonstrated the experience, competency, capability,
18 and capacity to complete projects of similar size, scope, or
19 complexity, and that proposed key personnel have sufficient
20 experience and training to competently manage and complete the
21 design and construction of the project, as well as a financial
22 statement that assures the city that the design-build entity has the
23 capacity to complete the project.

24 (iii) The licenses, registration, and credentials required to design
25 and construct the project, including information on the revocation
26 or suspension of any license, credential, or registration.

27 (iv) Evidence that establishes that the design-build entity has
28 the capacity to obtain all required payment and performance
29 bonding, liability insurance, and errors and omissions insurance.

30 (v) Any prior serious or willful violation of the California
31 Occupational Safety and Health Act of 1973, contained in Part 1
32 (commencing with Section 6300) of Division 5 of the Labor Code
33 or the federal Occupational Safety and Health Act of 1970 (Public
34 Law 91-596) settled against any member of the design-build entity,
35 and information concerning workers' compensation experience
36 history and worker safety program.

37 (vi) Information concerning any debarment, disqualification,
38 or removal from a federal, state, or local government public works
39 project. Any instance where an entity, its owners, officers, or
40 managing employees submitted a bid on a public works project

1 and were found to be nonresponsive, or were found by an awarding
2 body not to be a responsible bidder.

3 (vii) Any instance where the entity, its owners, officers, or
4 managing employees defaulted on a construction contract.

5 (viii) Any violations of the Contractors State License Law
6 (Chapter 9 (commencing with Section 7000) of Division 3 of the
7 Business and Professions Code), excluding alleged violations of
8 federal or state law including the payment of wages, benefits,
9 apprenticeship requirements, or personal income tax withholding,
10 or of Federal Insurance Contribution Act (FICA) withholding
11 requirements settled against any member of the design-build entity.

12 (ix) Information concerning the bankruptcy or receivership of
13 any member of the design-build entity, including information
14 concerning any work completed by a surety.

15 (x) Information concerning all settled adverse claims, disputes,
16 or lawsuits between the owner of a public works project and any
17 member of the design-build entity during the five years preceding
18 submission of a bid pursuant to this section, in which the claim,
19 settlement, or judgment exceeds fifty thousand dollars (\$50,000).
20 Information shall also be provided concerning any work completed
21 by a surety during this period.

22 (xi) In the case of a partnership or other association that is not
23 a legal entity, a copy of the agreement creating the partnership or
24 association and specifying that all partners or association members
25 agree to be fully liable for the performance under the design-build
26 contract.

27 (B) The information required pursuant to this subdivision shall
28 be verified under oath by the entity and its members in the manner
29 in which civil pleadings in civil actions are verified. Information
30 that is not a public record pursuant to the California Public Records
31 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
32 of Title 1 of the Government Code) shall not be open to public
33 inspection.

34 (4) The city shall establish a procedure for final selection of the
35 design-build entity. Selection shall be based on either of the
36 following criteria:

37 (A) A competitive bidding process resulting in lump-sum bids
38 by the prequalified design-build entities. Awards shall be made to
39 the lowest responsible bidder.

(B) The city may use a design-build competition based upon best value and other criteria set forth in paragraph (2) of subdivision (d). The design-build competition shall include the following elements:

(i) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposal. However, the following minimum factors shall each represent at least 10 percent of the total weight of consideration given to all criteria factors: price, technical design and construction expertise, life-cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record. Each of these factors shall be weighted equally.

(ii) Once the evaluation is complete, the top three responsive bidders shall be ranked sequentially from the most advantageous to the least.

(iii) The award of the contract shall be made to the responsible bidder whose proposal is determined, in writing, to be the most advantageous.

(iv) Notwithstanding any provision of this code, upon issuance of a contract award, the city shall publicly announce its award, identifying the contractor to whom the award is made, along with a written decision supporting its contract award and stating the basis of the award. The notice of award shall also include the city's second and third ranked design-build entities.

(v) For purposes of this paragraph, "skilled labor force availability" shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(vi) For purposes of this paragraph, a bidder's "safety record" shall be deemed "acceptable" if their experience modification rate for the most recent three-year period is an average of 1.00 or less, and their average total recordable injury/illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category, or if

1 the bidder is a party to an alternative dispute resolution system, as
2 provided for in Section 3201.5 of the Labor Code.

3 (e) (1) Any design-build entity that is selected to design and
4 build a project pursuant to this section shall possess or obtain
5 sufficient bonding to cover the contract amount for nondesign
6 services and errors and omissions insurance coverage sufficient
7 to cover all design and architectural services provided in the
8 contract. This section does not prohibit a general or engineering
9 contractor from being designated the lead entity on a design-build
10 entity for the purposes of purchasing necessary bonding to cover
11 the activities of the design-build entity.

12 (2) Any payment or performance bond written for the purposes
13 of this section shall be written using a bond form developed by
14 the city.

15 (f) All subcontractors that were not listed by the design-build
16 entity in accordance with clause (i) of subparagraph (A) of
17 paragraph (3) of subdivision (d) shall be awarded by the
18 design-build entity in accordance with the design-build process
19 set forth by the city in the design-build package. All subcontractors
20 bidding on contracts pursuant to this section shall be afforded the
21 protections contained in Chapter 4 (commencing with Section
22 4100) of Part 1. The design-build entity shall do both of the
23 following:

24 (1) Provide public notice of the availability of work to be
25 subcontracted in accordance with the publication requirements
26 applicable to the competitive bidding process of the city.

27 (2) Provide a fixed date and time on which the subcontracted
28 work will be awarded in accordance with the procedure established
29 pursuant to this section.

30 (g) The minimum performance criteria and design standards
31 established pursuant to paragraph (1) of subdivision (d) shall be
32 adhered to by the design-build entity. Any deviations from those
33 standards may only be allowed by written consent of the city.

34 (h) The city may retain the services of a design professional or
35 construction project manager, or both, throughout the course of
36 the project in order to ensure compliance with this section.

37 (i) Contracts awarded pursuant to this section shall be valid until
38 the project is completed.

39 (j) Nothing in this section is intended to affect, expand, alter,
40 or limit any rights or remedies otherwise available at law.

1 (k) (1) If the city elects to award a project pursuant to this
2 section, retention proceeds withheld by the city from the
3 design-build entity shall not exceed 5 percent if a performance and
4 payment bond, issued by an admitted surety insurer, is required in
5 the solicitation of bids.

6 (2) In a contract between the design-build entity and the
7 subcontractor, and in a contract between a subcontractor and any
8 subcontractor thereunder, the percentage of the retention proceeds
9 withheld may not exceed the percentage specified in the contract
10 between the city and the design-build entity. If the design-build
11 entity provides written notice to any subcontractor who is not a
12 member of the design-build entity, prior to or at the time the bid
13 is requested, that a bond may be required and the subcontractor
14 subsequently is unable or refuses to furnish a bond to the
15 design-build entity, then the design-build entity may withhold
16 retention proceeds in excess of the percentage specified in the
17 contract between the city and the design-build entity from any
18 payment made by the design-build entity to the subcontractor.

19 (l) Each city that elects to proceed under this section and uses
20 the design-build method on a public works project shall submit to
21 the Legislative Analyst's Office before December 1, 2014, a report
22 containing a description of each public works project procured
23 through the design-build process that is completed after January
24 1, 2011, and before November 1, 2014. The report shall include,
25 but shall not be limited to, all of the following information:

- 26 (1) The type of project.
- 27 (2) The gross square footage of the project.
- 28 (3) The design-build entity that was awarded the project.
- 29 (4) The estimated and actual project costs.
- 30 (5) A description of any written protests concerning any aspect
31 of the solicitation, bid, proposal, or award of the design-build
32 project, including the resolution of the protests.
- 33 (6) An assessment of the prequalification process and criteria.
- 34 (7) An assessment of the effect of retaining 5 percent retention
35 on the project.
- 36 (8) A description of the Labor Force Compliance Program and
37 an assessment of the project impact, where required.
- 38 (9) A description of the method used to award the contract. If
39 the best value method was used, the report shall describe the factors

1 used to evaluate the bid, including the weighting of each factor
2 and an assessment of the effectiveness of the methodology.

3 (10) An assessment of the project impact of “skilled labor force
4 availability.”

5 (11) An assessment of the most appropriate uses for the
6 design-build approach.

7 (m) Any city that elects not to use the authority granted by this
8 section may submit a report to the Legislative Analyst’s Office
9 explaining why the city elected not to use the design-build method.

10 (n) On or before January 1, 2015, the Legislative Analyst’s
11 Office shall report to the Legislature on the use of the design-build
12 method by cities pursuant to this section, including the information
13 listed in subdivision (l). The report may include recommendations
14 for modifying or extending this section.

15 (o) Except as provided in this section, nothing in this act shall
16 be construed to affect the application of any other law.

17 (p) Before January 1, 2011, the project limitation of one million
18 dollars (\$1,000,000), as set forth in subdivision (a), shall not apply
19 to any city in the Counties of Solano and Yolo, or to the Cities of
20 Stanton and Victorville.

21 (q) This section shall remain in effect only until January 1, 2016,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2016, deletes or extends that date.

24 ~~SEC. 114.~~

25 *SEC. 107.* Section 20193 of the Public Contract Code is
26 amended to read:

27 20193. (a) (1) Notwithstanding any other law and subject to
28 the limitations of this article, a qualified entity, with approval of
29 its governing body, may utilize an alternative procedure on bidding
30 on projects in excess of two million five hundred thousand dollars
31 (\$2,500,000).

32 (2) Only 20 design-build projects shall be authorized under this
33 article.

34 (3) A qualified entity may award a project using either the lowest
35 responsible bidder or by best value.

36 (4) For purposes of this article, “qualified entity” means an
37 entity that meets both of the following:

38 (A) The entity is any of the following:

39 (i) A city.

40 (ii) A county.

1 (iii) A city and county.

2 (iv) A special district.

3 (B) The entity operates wastewater facilities, solid waste
4 management facilities, or water recycling facilities.

5 (b) (1) For contracts awarded prior to the effective date of either
6 the regulations adopted by the Department of Industrial Relations
7 pursuant to subdivision (b) of Section 1771.55 of the Labor Code
8 or the fees established by the department pursuant to paragraph
9 (2), if a qualified entity elects to proceed under this section, the
10 qualified entity shall establish and enforce for design-build projects
11 a labor compliance program containing the requirements outlined
12 in Section 1771.5 of the Labor Code, or it shall contract with a
13 third party to operate a labor compliance program containing the
14 requirements outlined in Section 1771.5 of the Labor Code. This
15 requirement shall not apply to any project where the qualified
16 entity or the design-build entity has entered into any collective
17 bargaining agreement or agreements that bind all of the contractors
18 performing work on the projects.

19 (2) For contracts awarded on or after the effective date of both
20 the regulations adopted by the Department of Industrial Relations
21 pursuant to subdivision (b) of Section 1771.55 of the Labor Code
22 and the fees established by the department pursuant to this
23 paragraph, the qualified entity shall pay a fee to the department,
24 in an amount that the department shall establish, and as it may
25 from time to time amend, sufficient to support the department's
26 costs in ensuring compliance with and enforcing prevailing wage
27 requirements on the project, and labor compliance enforcement as
28 set forth in subdivision (b) of Section 1771.55. All fees collected
29 pursuant to this subdivision shall be deposited in the State Public
30 Works Enforcement Fund created by Section 1771.3 of the Labor
31 Code, and shall be used only for enforcement of prevailing wage
32 requirements on those projects.

33 (3) The Department of Industrial Relations may waive the fee
34 set forth in paragraph (2) if the qualified entity has previously been
35 granted approval by the director to initiate and operate a labor
36 compliance program on its projects and requests to continue to
37 operate that labor compliance program on its projects in lieu of
38 labor compliance by the department pursuant to subdivision (b)
39 of Section 1771.55. The fee shall not be waived for the qualified

1 entity if it contracts with a third party to initiate and enforce labor
2 compliance programs on its projects.

3 (c) As used in this section:

4 (1) “Best value” means a value determined by objective criteria
5 related to price, features, functions, small business contracting
6 plans, past performance, and life-cycle costs.

7 (2) “Design-build” means a procurement process in which both
8 the design and construction of a project are procured from a single
9 entity.

10 (3) “Design-build entity” means a partnership, corporation, or
11 other legal entity that is able to provide appropriately licensed
12 contracting, architectural, and engineering services as needed
13 pursuant to a design-build contract.

14 (4) “Project” means the construction of regional and local
15 wastewater treatment facilities, regional and local solid waste
16 facilities, or regional and local water recycling facilities.

17 (d) Design-build projects shall progress in a four-step process,
18 as follows:

19 (1) (A) The qualified entity shall prepare a set of documents
20 setting forth the scope of the project. The documents may include,
21 but are not limited to, the size, type, and desired design character
22 of the project and site, performance specifications covering the
23 quality of materials, equipment, and workmanship, preliminary
24 plans or project layouts, or any other information deemed necessary
25 to describe adequately the qualified entity’s needs. The
26 performance specifications and any plans shall be prepared by a
27 design professional who is duly licensed and registered in
28 California.

29 (B) Any architect or engineer retained by the qualified entity
30 to assist in the development of the project specific documents shall
31 not be eligible to participate in the preparation of a bid with any
32 design-build entity for that project.

33 (2) (A) Based on the documents prepared in paragraph (1), the
34 qualified entity shall prepare a request for proposals that invites
35 interested parties to submit competitive sealed proposals in the
36 manner prescribed by the qualified entity. The request for proposals
37 shall include, but is not limited to, the following elements:

38 (i) Identification of the basic scope and needs of the project or
39 contract, the expected cost range, and other information deemed
40 necessary by the qualified entity to inform interested parties of the

1 contracting opportunity, to include the methodology that will be
2 used by the qualified entity to evaluate proposals and specifically
3 if the contract will be awarded to the lowest responsible bidder.

4 (ii) Significant factors that the qualified entity reasonably
5 expects to consider in evaluating proposals, including cost or price
6 and all nonprice related factors.

7 (iii) The relative importance of weight assigned to each of the
8 factors identified in the request for proposals.

9 (B) With respect to clause (iii) of subparagraph (A), if a
10 nonweighted system is used, the qualified entity shall specifically
11 disclose whether all evaluation factors other than cost or price
12 when combined are:

13 (i) Significantly more important than cost or price.

14 (ii) Approximately equal in importance to cost or price.

15 (iii) Significantly less important than cost or price.

16 (C) If the qualified entity chooses to reserve the right to hold
17 discussions or negotiations with responsive bidders, it shall so
18 specify in the request for proposal and shall publish separately or
19 incorporate into the request for proposal applicable rules and
20 procedures to be observed by the qualified entity to ensure that
21 any discussions or negotiations are conducted in good faith.

22 (3) (A) The qualified entity shall establish a procedure to
23 prequalify design-build entities using a standard questionnaire
24 developed by the qualified entity. In preparing the questionnaire,
25 the qualified entity shall consult with the construction industry,
26 including representatives of the building trades and surety industry.
27 This questionnaire shall require information including, but not
28 limited to, all of the following:

29 (i) If the design-build entity is a partnership, limited partnership,
30 or other association, a listing of all of the partners, general partners,
31 or association members known at the time of bid submission who
32 will participate in the design-build contract, including, but not
33 limited to, mechanical subcontractors.

34 (ii) Evidence that the members of the design-build entity have
35 completed, or demonstrated the experience, competency, capability,
36 and capacity to complete projects of similar size, scope, or
37 complexity, and that proposed key personnel have sufficient
38 experience and training to competently manage and complete the
39 design and construction of the project, as well as a financial

1 statement that assures the special district that the design-build
2 entity has the capacity to complete the project.

3 (iii) The licenses, registration, and credentials required to design
4 and construct the project, including information on the revocation
5 or suspension of any license, credential, or registration.

6 (iv) Evidence that establishes that the design-build entity has
7 the capacity to obtain all required payment and performance
8 bonding, liability insurance, and errors and omissions insurance.

9 (v) Any prior serious or willful violation of the California
10 Occupational Safety and Health Act of 1973, contained in Part 1
11 (commencing with Section 6300) of Division 5 of the Labor Code
12 or the federal Occupational Safety and Health Act of 1970 (Public
13 Law 91-596), settled against any member of the design-build entity,
14 and information concerning workers' compensation experience
15 history and worker safety program.

16 (vi) Information concerning any debarment, disqualification,
17 or removal from a federal, state, or local government public works
18 project. Any instance where an entity, its owners, officers, or
19 managing employees submitted a bid on a public works project
20 and were found to be nonresponsive, or were found by an awarding
21 body not to be a responsible bidder.

22 (vii) Any instance where the entity, its owner, officers, or
23 managing employees defaulted on a construction contract.

24 (viii) Any violations of the Contractors' State License Law
25 (Chapter 9 (commencing with Section 7000) of Division 3 of the
26 Business and Professions Code), excluding alleged violations of
27 federal or state law including the payment of wages, benefits,
28 apprenticeship requirements, or personal income tax withholding,
29 or of Federal Insurance Contribution Act (FICA) withholding
30 requirements settled against any member of the design-build entity.

31 (ix) Information concerning the bankruptcy or receivership of
32 any member of the design-build entity, including information
33 concerning any work completed by a surety.

34 (x) Information concerning all settled adverse claims, disputes,
35 or lawsuits between the owner of a public works project and any
36 member of the design-build entity during the five years preceding
37 submission of a bid pursuant to this section, in which the claim,
38 settlement, or judgment exceeds fifty thousand dollars (\$50,000).
39 Information shall also be provided concerning any work completed
40 by a surety during this period.

1 (xi) In the case of a partnership or other association, that is not
2 a legal entity, a copy of the agreement creating the partnership or
3 association and specifying that all partners or association members
4 agree to be fully liable for the performance under the design-build
5 contract.

6 (B) The information required pursuant to this subdivision shall
7 be verified under oath by the entity and its members in the manner
8 in which civil pleadings in civil actions are verified. Information
9 that is not a public record pursuant to the California Public Records
10 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
11 of Title 1 of the Government Code) shall not be open to public
12 inspection.

13 (4) The qualified entity shall establish a procedure for final
14 selection of the design-build entity. Selection shall be based on
15 either of the following criteria:

16 (A) A competitive bidding process resulting in lump-sum bids
17 by the prequalified design-build entities. Awards shall be made to
18 the lowest responsible bidder.

19 (B) A qualified entity may use a design-build competition based
20 upon best value and other criteria set forth in paragraph (2) of
21 subdivision (d). The design-build competition shall include the
22 following elements:

23 (i) Competitive proposals shall be evaluated by using only the
24 criteria and selection procedures specifically identified in the
25 request for proposal. However, the following minimum factors
26 shall each represent at least 10 percent of the total weight of
27 consideration given to all criteria factors; price, technical design
28 and construction expertise, life-cycle costs over 15 years or more,
29 skilled labor force availability, and acceptable safety record.

30 (ii) Once the evaluation is complete, the top three responsive
31 bidders shall be ranked sequentially from the most advantageous
32 to the least.

33 (iii) The award of the contract shall be made to the responsible
34 bidder whose proposal is determined, in writing, to be the most
35 advantageous.

36 (iv) Notwithstanding any provision of this code, upon issuance
37 of a contract award, the qualified entity shall publicly announce
38 its award, identifying the contractor to which the award is made,
39 along with a written decision supporting its contract award and
40 stating the basis of the award. The notice of award shall also

1 include the qualified entity's second and third ranked design-build
2 entities.

3 (v) For purposes of this paragraph, "skilled labor force
4 availability" shall be determined by the existence of an agreement
5 with a registered apprenticeship program, approved by the
6 California Apprenticeship Council, which has graduated
7 apprentices in each of the preceding five years. This graduation
8 requirement shall not apply to programs providing apprenticeship
9 training for any craft that has been deemed by the Department of
10 Labor and the Department of Industrial Relations to be an
11 apprenticeable craft in the five years prior to enactment of this act.

12 (vi) For purposes of this paragraph, a bidder's "safety record"
13 shall be deemed "acceptable" if their experience modification rate
14 for the most recent three-year period is an average of 1.00 or less,
15 and their average total recordable injury/illness rate and average
16 lost work rate for the most recent three-year period does not exceed
17 the applicable statistical standards for its business category, or if
18 the bidder is a party to an alternative dispute resolution system as
19 provided for in Section 3201.5 of the Labor Code.

20 (e) (1) Any design-build entity that is selected to design and
21 build a project pursuant to this section shall possess or obtain
22 sufficient bonding to cover the contract amount for nondesign
23 services, and errors and omissions insurance coverage sufficient
24 to cover all design and architectural services provided in the
25 contract. This section does not prohibit a general or engineering
26 contractor from being designated the lead entity on a design-build
27 entity for the purposes of purchasing necessary bonding to cover
28 the activities of the design-build entity.

29 (2) Any payment or performance bond written for the purposes
30 of this section shall be written using a bond form developed by
31 the qualified entity.

32 (f) All subcontractors that were not listed by the design-build
33 entity in accordance with clause (i) of subparagraph (A) of
34 paragraph (3) of subdivision (d) shall be awarded by the
35 design-build entity in accordance with the design-build process
36 set forth by the qualified entity in the design-build package. All
37 subcontractors bidding on contracts pursuant to this section shall
38 be afforded the protections contained in Chapter 4 (commencing
39 with Section 4100) of Part 1. The design-build entity shall do both
40 of the following:

1 (1) Provide public notice of the availability of work to be
2 subcontracted in accordance with the publication requirements
3 applicable to the competitive bidding process of the qualified
4 entity.

5 (2) Provide a fixed date and time on which the subcontracted
6 work will be awarded in accordance with the procedure established
7 pursuant to this section.

8 (g) The minimum performance criteria and design standards
9 established pursuant to paragraph (1) of subdivision (d) shall be
10 adhered to by the design-build entity. Any deviations from those
11 standards may only be allowed by written consent of the qualified
12 entity.

13 (h) The qualified entity may retain the services of a design
14 professional or construction project manager, or both, throughout
15 the course of the project in order to ensure compliance with this
16 section.

17 (i) Contracts awarded pursuant to this section shall be valid until
18 the project is completed.

19 (j) Nothing in this section is intended to affect, expand, alter,
20 or limit any rights or remedies otherwise available at law.

21 (k) (1) If the qualified entity elects to award a project pursuant
22 to this section, retention proceeds withheld by the qualified entity
23 from the design-build entity shall not exceed 5 percent if a
24 performance and payment bond, issued by an admitted surety
25 insurer, is required in the solicitation of bids.

26 (2) In a contract between the design-build entity and the
27 subcontractor, and in a contract between a subcontractor and any
28 subcontractor thereunder, the percentage of the retention proceeds
29 withheld may not exceed the percentage specified in the contract
30 between the qualified entity and the design-build entity. If the
31 design-build entity provides written notice to any subcontractor
32 who is not a member of the design-build entity, prior to or at the
33 time the bid is requested, that a bond may be required and the
34 subcontractor subsequently is unable or refuses to furnish a bond
35 to the design-build entity, then the design-build entity may withhold
36 retention proceeds in excess of the percentage specified in the
37 contract between the qualified entity and the design-build entity
38 from any payment made by the design-build entity to the
39 subcontractor.

1 (l) Each qualified entity that elects to proceed under this section
2 and uses the design-build method on a public works project shall
3 do both of the following:

4 (1) Notify the Legislative Analyst's Office upon initiation of
5 the project and upon completion of the project.

6 (2) Submit to the Legislative Analyst's Office, upon completion
7 of the project, a report containing a description of the public works
8 project procured through the design-build process pursuant to this
9 section and completed after January 1, 2009. The report shall
10 include, but shall not be limited to, all of the following information:

11 (A) The type of project.

12 (B) The gross square footage of the project.

13 (C) The design-build entity that was awarded the project.

14 (D) The estimated and actual project costs.

15 (E) A description of any written protests concerning any aspect
16 of the solicitation, bid, proposal, or award of the design-build
17 project, including the resolution of the protests.

18 (F) An assessment of the prequalification process and criteria.

19 (G) An assessment of the effect of retaining 5-percent retention
20 on the project.

21 (H) A description of the Labor Force Compliance Program and
22 an assessment of the project impact, where required.

23 (I) A description of the method used to award the contract. If
24 best value was the method, the report shall describe the factors
25 used to evaluate the bid, including the weighting of each factor
26 and an assessment of the effectiveness of the methodology.

27 (J) An assessment of the project impact of "skilled labor force
28 availability."

29 (K) An assessment of the most appropriate uses for the
30 design-build approach.

31 (m) Any qualified entity that elects not to use the authority
32 granted by this section may submit a report to the Legislative
33 Analyst's Office explaining why the qualified entity elected to not
34 use the design-build method.

35 (n) (1) In order to comply with paragraph (2) of subdivision
36 (a), the Office of Planning and Research is required to maintain
37 the list of entities that have applied and are eligible to be qualified
38 for this authority.

(2) Each entity that is interested in proceeding under the authority in this section must apply to the Office of Planning and Research.

(A) The application to proceed must be in writing.

(B) An entity must have complied with the California Environmental Quality Act review process pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code prior to its application, and must include its approved notice of determination or notice of completion in its application.

(3) The Office of Planning and Research must approve or deny an application, in writing, within 30 days. The authority to deny an application shall only be exercised if the conditions set forth in either or both paragraph (2) of subdivision (a) and subparagraph (B) of paragraph (2) of this subdivision have not been satisfied.

(4) An entity utilizing this section must, after it determines it no longer is interested in using this authority, notify the Office of Planning and Research in writing within 30 days of its determination. Upon notification, the Office of Planning and Research may contact any previous applicants, denied pursuant to paragraph (2) of subdivision (a), to inform them of the availability to proceed under this section.

(o) The Legislative Analyst shall report to the Legislature on the use of the design-build method by qualified entities pursuant to this section, including the information listed in subdivision (l). The report may include recommendations for modifying or extending this section, and shall be submitted on either of the following dates, whichever occurs first:

(1) Within one year of the completion of the 20 projects, if the projects are completed prior to January 1, 2019.

(2) No later than January 1, 2020.

~~SEC. 115.~~

SEC. 108. Section 20209.7 of the Public Contract Code is amended to read:

20209.7. Design-build projects shall progress in a three-step process, as follows:

(a) The transit operator shall prepare a set of documents setting forth the scope of the project. The documents shall include, but are not limited to, the size, type, and desired design character of the buildings, transit facilities, and site, performance specifications covering the quality of materials, equipment, and workmanship,

1 preliminary plans or building layouts, or any other information
2 deemed necessary to describe adequately the transit operator's
3 needs. The performance specifications and any plans shall be
4 prepared by a design professional duly licensed or registered in
5 California.

6 (b) Any architectural or engineering firm or individual retained
7 by the transit operator to assist in the development criteria or
8 preparation of the request for proposal (RFP) is not eligible to
9 participate in the competition for the design-build entity.

10 (c) (1) For contracts awarded prior to the effective date of either
11 the regulations adopted by the Department of Industrial Relations
12 pursuant to subdivision (b) of Section 1771.55 of the Labor Code
13 or the fee established by the department pursuant to paragraph (2),
14 if the transit operator does not already have a labor compliance
15 program, as defined in Section 1771.5 of the Labor Code, the
16 transit operator shall establish and enforce a labor compliance
17 program for the design-build contract containing the requirements
18 outlined in Section 1771.5 of the Labor Code or shall contract with
19 a third party to operate this labor compliance program containing
20 the requirements outlined in Section 1771.5 of the Labor Code.
21 This requirement applies only to the design-build contract and
22 does not apply to projects where the transit operator or the
23 design-build entity has entered into a collective bargaining
24 agreement that binds all of the contractors performing work on the
25 project, or to any other project of the transit operator that is not
26 design-build.

27 (2) For contracts awarded on or after the effective date of both
28 the regulations adopted by the Department of Industrial Relations
29 pursuant to subdivision (b) of Section 1771.55 of the Labor Code
30 and the fee established by the department pursuant to this
31 paragraph, the transit operator shall pay a fee to the department,
32 in an amount that the department shall establish, and as it may
33 from time to time amend, sufficient to support the department's
34 costs in ensuring compliance with and enforcing prevailing wage
35 requirements on the project, and labor compliance enforcement as
36 set forth in subdivision (b) of Section 1771.55 of the Labor Code.
37 All fees collected pursuant to this subdivision shall be deposited
38 in the State Public Works Enforcement Fund created by Section
39 1771.3 of the Labor Code, and shall be used only for enforcement
40 of prevailing wage requirements on those projects.

(3) The Department of Industrial Relations may waive the fee set forth in paragraph (2) if the transit operator has previously been granted approval by the director to initiate and operate a labor compliance program on its projects and requests to continue to operate that labor compliance program on its projects in lieu of labor compliance by the department pursuant to subdivision (b) of Section 1771.55 of the Labor Code. The fee shall not be waived for the transit operator if it contracts with a third party to initiate and enforce labor compliance programs on its projects.

(d) (1) Each RFP shall identify the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the contracting agency to inform interested parties of the contracting opportunity.

(2) Each RFP shall invite interested parties to submit competitive sealed proposals in the manner prescribed by the contracting agency.

(3) Each RFP shall include a section identifying and describing:

(A) All significant factors that the agency reasonably expects to consider in evaluating proposals, including cost or price and all nonprice-related factors.

(B) The methodology and rating or weighting process that will be used by the agency in evaluating competitive proposals and specifically whether proposals will be rated according to numeric or qualitative values.

(C) The relative importance or weight assigned to each of the factors identified in the RFP. If a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price, when combined, are any of the following:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(D) If the contracting agency wishes to reserve the right to hold discussions or negotiations with offerors, it shall specify the same in the RFP and shall publish separately or incorporate into the RFP applicable rules and procedures to be observed by the agency to ensure that any discussions or negotiations are conducted in a fair and impartial manner.

(e) (1) The transit operator shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the Director of Industrial Relations. The standardized

1 questionnaire shall not require prospective bidders to disclose any
2 violations of Chapter 1 (commencing with Section 1720) of Part
3 7 of Division 2 of the Labor Code committed prior to January 1,
4 1998, if the violation was based on a subcontractor's failure to
5 comply with these provisions and the bidder had no knowledge of
6 the subcontractor's violations and the bidder complied with the
7 conditions set forth in subdivision (b) of Section 1775 of the Labor
8 Code. In preparing the questionnaire, the director shall consult
9 with the construction industry, building trades, transit operators,
10 and other affected parties. This questionnaire shall require
11 information relevant to the architecture or engineering firm that
12 will be the lead on the design-build project. The questionnaire
13 shall include, but is not limited to, all of the following:

14 (A) A listing of all the contractors that are part of the
15 design-build entity.

16 (B) Evidence that the members of the design-build entity have
17 completed, or demonstrated the experience, competency, capability,
18 and capacity to complete, projects of similar size, scope, or
19 complexity, and that proposed key personnel have sufficient
20 experience and training to competently manage and complete the
21 design and construction of the project.

22 (C) The licenses, registrations, and credentials required to design
23 and construct the project, including information on the revocation
24 or suspension of any license, credential, or registration.

25 (D) Evidence that establishes that the design-build entity has
26 the capacity to obtain all required payment and performance
27 bonding, liability insurance, and errors and omissions insurance,
28 as well as a financial statement that assures the transit operator
29 that the design-build entity has the capacity to complete the project.

30 (E) Any prior serious or willful violation of the California
31 Occupational Safety and Health Act of 1973, contained in Part 1
32 (commencing with Section 6300) of Division 5 of the Labor Code
33 or the federal Occupational Safety and Health Act of 1970 (P.L.
34 91-596), settled against any member of the design-build entity,
35 and information concerning a contractor member's workers'
36 compensation experience history and worker safety program.

37 (F) Information concerning any debarment, disqualification, or
38 removal from a federal, state, or local government public works
39 project. Any instance where an entity, its owners, officers, or

1 managing employees submitted a bid on a public works project
2 and were found by an awarding body not to be a responsible bidder.

3 (G) Any instance where the entity, its owner, officers, or
4 managing employees defaulted on a construction contract.

5 (H) Any violations of the Contractors State License Law
6 (Chapter 9 (commencing with Section 7000) of Division 3 of the
7 Business and Professions Code), excluding alleged violations of
8 federal or state law, including the payment of wages, benefits,
9 apprenticeship requirements, or personal income tax withholding,
10 or of Federal Insurance Contribution Act (FICA) withholding
11 requirements settled against any member of the design-build entity.

12 (I) Information concerning the bankruptcy or receivership of
13 any member of the entity, and information concerning all legal
14 claims, disputes, or lawsuits arising from any construction project
15 of any member of the entity during the past three years, including
16 information concerning any work completed by a surety.

17 (J) If the design-build entity is a partnership, limited partnership,
18 or other association, a listing of all of the partners, general partners,
19 or association members who will participate as subcontractors in
20 the design-build contract.

21 (K) Information concerning all settled adverse claims, disputes,
22 or lawsuits between the owner of a public works project and any
23 member of the design-build entity during the five-year period
24 immediately preceding submission of a bid pursuant to this section,
25 in which the claim, settlement, or judgment exceeds fifty thousand
26 dollars (\$50,000). Information shall also be provided concerning
27 any work completed by a surety during this period.

28 (L) In the case of a partnership or other association that is not
29 a legal entity, a copy of the agreement creating the partnership or
30 association and specifying that all partners or association members
31 agree to be liable for full performance under the design-build
32 contract.

33 (2) The information required pursuant to this subdivision shall
34 be verified under oath by the entity and its members in the manner
35 in which civil pleadings in civil actions are verified. Information
36 that is not a public record pursuant to the California Public Records
37 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
38 of Title 1 of the Government Code) shall not be open to public
39 inspection.

1 (f) The transit operator shall establish a procedure for final
2 selection of the design-build entity. Selection shall be subject to
3 the following conditions:

4 (1) In no case shall the transit operator award a contract to a
5 design-build entity pursuant to this article for a capital maintenance
6 or capacity-enhancing rail project unless that project exceeds
7 twenty-five million dollars (\$25,000,000) in cost.

8 (2) For nonrail transit projects that exceed two million five
9 hundred thousand dollars (\$2,500,000), the transit operator may
10 award the project to the lowest responsible bidder or by using the
11 best value method.

12 (3) For the acquisition and installation of technology applications
13 or surveillance equipment designed to enhance safety, disaster
14 preparedness, and homeland security efforts, there shall be no cost
15 threshold and the transit operator may award the contract to the
16 lowest responsible bidder or by using the best value method.

17 (g) Except as provided in this section, nothing in this act shall
18 be construed to affect the application of any other law.

19 ~~SEC. 116.~~

20 *SEC. 109.* Section 20688.6 of the Public Contract Code is
21 amended to read:

22 20688.6. (a) (1) Notwithstanding any other law, an agency,
23 with approval of its duly constituted board in a public hearing,
24 may utilize an alternative procedure for bidding on projects in the
25 community in excess of one million dollars (\$1,000,000) and may
26 award the project using either the lowest responsible bidder or by
27 best value.

28 (2) Only 10 design-build projects shall be authorized under this
29 section.

30 (b) (1) It is the intent of the Legislature to enable entities as
31 provided in Part 1 (commencing with Section 33000) of Division
32 24 of the Health and Safety Code to utilize design-build for those
33 infrastructure improvements authorized in Sections 33421 and
34 33445 of the Health and Safety Code and subject to the limitations
35 on that authority described in Section 33421.1 of the Health and
36 Safety Code.

37 (2) The Legislature also finds and declares that utilizing a
38 design-build contract requires a clear understanding of the roles
39 and responsibilities of each participant in the design-build process.

(3) (A) For contracts awarded prior to the effective date of either the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code or the fees established by the department pursuant to subparagraph (B), if the board elects to proceed under this section, the board shall establish and enforce for design-build projects a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code, or it shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to any project where the agency or the design-build entity has entered into any collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(B) For contracts awarded on or after the effective date of both the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code and the fees established by the department pursuant to this subparagraph, if the board elects to proceed under this section it shall pay a fee to the department, in an amount that the department shall establish, and as it may from time to time amend, sufficient to support the department's costs in ensuring compliance with and enforcing prevailing wage requirements on the project, and labor compliance enforcement as set forth in subdivision (b) of Section 1771.55 of the Labor Code. All fees collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund, created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.

(C) The Department of Industrial Relations may waive the fee set forth in subdivision (b) for a board that has previously been granted approval by the director to initiate and operate a labor compliance program on its projects, and that requests to continue to operate the labor compliance program on its projects in lieu of labor compliance by the department pursuant to subdivision (b) of Section 1771.55. This fee shall not be waived for a board that contracts with a third party to initiate and enforce labor compliance programs on the board's projects.

(c) As used in this section:

1 (1) “Best value” means a value determined by objective criteria
2 related to price, features, functions, and life-cycle costs.

3 (2) “Design-build” means a procurement process in which both
4 the design and construction of a project are procured from a single
5 entity.

6 (3) “Design-build entity” means a partnership, corporation, or
7 other legal entity that is able to provide appropriately licensed
8 contracting, architectural, and engineering services as needed
9 pursuant to a design-build contract.

10 (4) “Project” means those infrastructure improvements
11 authorized in Sections 33421 and 33455 of the Health and Safety
12 Code and subject to the limitations and conditions on that authority
13 described in Article 10 (commencing with Section 33420) and
14 Article 11 (commencing with Section 33430) of Chapter 4 of Part
15 1 of Division 24 of the Health and Safety Code.

16 (d) Design-build projects shall progress in a four-step process,
17 as follows:

18 (1) (A) The agency shall prepare a set of documents setting
19 forth the scope of the project. The documents may include, but are
20 not limited to, the size, type, and desired design character of the
21 public improvement, performance specifications covering the
22 quality of materials, equipment, and workmanship, preliminary
23 plans or building layouts, or any other information deemed
24 necessary to describe adequately the agency’s needs. The
25 performance specifications and any plans shall be prepared by a
26 design professional who is duly licensed and registered in
27 California.

28 (B) Any architect or engineer retained by the agency to assist
29 in the development of the project specific documents shall not be
30 eligible to participate in the preparation of a bid with any
31 design-build entity for that project.

32 (2) (A) Based on the documents prepared as described in
33 paragraph (1), the agency shall prepare a request for proposals that
34 invites interested parties to submit competitive sealed proposals
35 in the manner prescribed by the agency. The request for proposals
36 shall include, but is not limited to, the following elements:

37 (i) Identification of the basic scope and needs of the project or
38 contract, the expected cost range, and other information deemed
39 necessary by the agency to inform interested parties of the
40 contracting opportunity, to include the methodology that will be

1 used by the agency to evaluate proposals and specifically if the
2 contract will be awarded to the lowest responsible bidder.

3 (ii) Significant factors that the agency reasonably expects to
4 consider in evaluating proposals, including cost or price and all
5 nonprice-related factors.

6 (iii) The relative importance of the weight assigned to each of
7 the factors identified in the request for proposals.

8 (B) With respect to clause (iii) of subparagraph (A), if a
9 nonweighted system is used, the agency shall specifically disclose
10 whether all evaluation factors other than cost or price when
11 combined are:

12 (i) Significantly more important than cost or price.

13 (ii) Approximately equal in importance to cost or price.

14 (iii) Significantly less important than cost or price.

15 (C) If the agency chooses to reserve the right to hold discussions
16 or negotiations with responsive bidders, it shall so specify in the
17 request for proposal and shall publish separately or incorporate
18 into the request for proposal applicable rules and procedures to be
19 observed by the agency to ensure that any discussions or
20 negotiations are conducted in good faith.

21 (3) (A) The agency shall establish a procedure to prequalify
22 design-build entities using a standard questionnaire developed by
23 the agency. In preparing the questionnaire, the agency shall consult
24 with the construction industry, including representatives of the
25 building trades and surety industry. This questionnaire shall require
26 information including, but not limited to, all of the following:

27 (i) If the design-build entity is a partnership, limited partnership,
28 or other association, a listing of all of the partners, general partners,
29 or association members known at the time of bid submission who
30 will participate in the design-build contract, including, but not
31 limited to, mechanical subcontractors.

32 (ii) Evidence that the members of the design-build entity have
33 completed, or demonstrated the experience, competency, capability,
34 and capacity to complete, projects of similar size, scope, or
35 complexity, and that proposed key personnel have sufficient
36 experience and training to competently manage and complete the
37 design and construction of the project, as well as a financial
38 statement that assures the agency that the design-build entity has
39 the capacity to complete the project.

1 (iii) The licenses, registration, and credentials required to design
2 and construct the project, including information on the revocation
3 or suspension of any license, credential, or registration.

4 (iv) Evidence that establishes that the design-build entity has
5 the capacity to obtain all required payment and performance
6 bonding, liability insurance, and errors and omissions insurance.

7 (v) Any prior serious or willful violation of the California
8 Occupational Safety and Health Act of 1973, contained in Part 1
9 (commencing with Section 6300) of Division 5 of the Labor Code,
10 or the federal Occupational Safety and Health Act of 1970 (P.L.
11 91-596), settled against any member of the design-build entity,
12 and information concerning workers' compensation experience
13 history and worker safety program.

14 (vi) Information concerning any debarment, disqualification,
15 or removal from a federal, state, or local government public works
16 project. Any instance in which an entity, its owners, officers, or
17 managing employees submitted a bid on a public works project
18 and were found to be nonresponsive, or were found by an awarding
19 body not to be a responsible bidder.

20 (vii) Any instance in which the entity, or its owners, officers,
21 or managing employees, defaulted on a construction contract.

22 (viii) Any violations of the Contractors State License Law
23 (Chapter 9 (commencing with Section 7000) of Division 3 of the
24 Business and Professions Code), including alleged violations of
25 federal or state law including the payment of wages, benefits,
26 apprenticeship requirements, or personal income tax withholding,
27 or of Federal Insurance Contributions Act (FICA) withholding
28 requirements settled against any member of the design-build entity.

29 (ix) Information concerning the bankruptcy or receivership of
30 any member of the design-build entity, including information
31 concerning any work completed by a surety.

32 (x) Information concerning all settled adverse claims, disputes,
33 or lawsuits between the owner of a public works project and any
34 member of the design-build entity during the five years preceding
35 submission of a bid pursuant to this section, in which the claim,
36 settlement, or judgment exceeds fifty thousand dollars (\$50,000).
37 Information shall also be provided concerning any work completed
38 by a surety during this period.

39 (xi) In the case of a partnership, joint venture, or an association
40 that is not a legal entity, a copy of the agreement creating the

1 partnership or association and specifying that all general partners,
2 joint venturers, or association members agree to be fully liable for
3 the performance under the design-build contract.

4 (B) The information required pursuant to this subdivision shall
5 be verified under oath by the entity and its members in the manner
6 in which civil pleadings in civil actions are verified. Information
7 that is not a public record pursuant to the California Public Records
8 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
9 of Title 1 of the Government Code) shall not be open to public
10 inspection.

11 (4) The agency shall establish a procedure for final selection of
12 the design-build entity. Selection shall be based on either of the
13 following criteria:

14 (A) A competitive bidding process resulting in lump-sum bids
15 by the prequalified design-build entities. Awards shall be made to
16 the lowest responsible bidder.

17 (B) An agency may use a design-build competition based upon
18 best value and other criteria set forth in paragraph (2). The
19 design-build competition shall include the following elements:

20 (i) Competitive proposals shall be evaluated by using only the
21 criteria and selection procedures specifically identified in the
22 request for proposal. However, the following minimum factors
23 shall each represent at least 10 percent of the total weight of
24 consideration given to all criteria factors: price, technical design
25 and construction expertise, life-cycle costs over 15 years or more,
26 skilled labor force availability, and acceptable safety record.

27 (ii) Once the evaluation is complete, the top three responsive
28 bidders shall be ranked sequentially from the most advantageous
29 to the least.

30 (iii) The award of the contract shall be made to the responsible
31 bidder whose proposal is determined, in writing, to be the most
32 advantageous.

33 (iv) Notwithstanding any provision of this code, upon issuance
34 of a contract award, the agency shall publicly announce its award,
35 identifying the contractor to whom the award is made, along with
36 a written decision supporting its contract award and stating the
37 basis of the award. The notice of award shall also include the
38 agency's second- and third-ranked design-build entities.

39 (v) For purposes of this paragraph, skilled labor force availability
40 shall be determined by the existence of an agreement with a

1 registered apprenticeship program, approved by the California
2 Apprenticeship Council, which has graduated apprentices in each
3 of the preceding five years. This graduation requirement shall not
4 apply to programs providing apprenticeship training for any craft
5 that has been deemed by the Department of Labor and the
6 Department of Industrial Relations to be an apprenticeable craft
7 in the five years prior to enactment of this act.

8 (vi) For purposes of this paragraph, a bidder's safety record
9 shall be deemed acceptable if its experience modification rate for
10 the most recent three-year period is an average of 1.00 or less, and
11 its average total recordable injury/illness rate and average lost
12 work rate for the most recent three-year period does not exceed
13 the applicable statistical standards for its business category or if
14 the bidder is a party to an alternative dispute resolution system as
15 provided for in Section 3201.5 of the Labor Code.

16 (e) (1) Any design-build entity that is selected to design and
17 build a project pursuant to this section shall possess or obtain
18 sufficient bonding to cover the contract amount for nondesign
19 services, and errors and omission insurance coverage sufficient to
20 cover all design and architectural services provided in the contract.
21 This section does not prohibit a general or engineering contractor
22 from being designated the lead entity on a design-build entity for
23 the purposes of purchasing necessary bonding to cover the activities
24 of the design-build entity.

25 (2) Any payment or performance bond written for the purposes
26 of this section shall be written using a bond form developed by
27 the agency.

28 (f) All subcontractors that were not listed by the design-build
29 entity in accordance with clause (i) of subparagraph (A) of
30 paragraph (3) of subdivision (d) shall be awarded by the
31 design-build entity in accordance with the design-build process
32 set forth by the agency in the design-build package. All
33 subcontractors bidding on contracts pursuant to this section shall
34 be afforded the protections contained in Chapter 4 (commencing
35 with Section 4100) of Part 1. The design-build entity shall do both
36 of the following:

37 (1) Provide public notice of the availability of work to be
38 subcontracted in accordance with the publication requirements
39 applicable to the competitive bidding process of the agency.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this section.

(g) The minimum performance criteria and design standards established pursuant to paragraph (1) of subdivision (d) shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the agency.

(h) The agency may retain the services of a design professional or construction project manager, or both, throughout the course of the project in order to ensure compliance with this section.

(i) Contracts awarded pursuant to this section shall be valid until the project is completed.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

(k) (1) If the agency elects to award a project pursuant to this section, retention proceeds withheld by the agency from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(2) In a contract between the design-build entity and the subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the agency and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the agency and the design-build entity from any payment made by the design-build entity to the subcontractor.

(l) Each agency that elects to proceed under this section and uses the design-build method on a public works project shall submit to the Legislative Analyst's Office before December 1, 2014, a report containing a description of each public works project procured through the design-build process after January 1, 2010, and before November 1, 2014. The report shall include, but shall not be limited to, all of the following information:

(1) The type of project.

1 (2) The gross square footage of the project.

2 (3) The design-build entity that was awarded the project.

3 (4) Where appropriate, the estimated and actual length of time
4 to complete the project.

5 (5) The estimated and actual project costs.

6 (6) A description of any written protests concerning any aspect
7 of the solicitation, bid, proposal, or award of the design-build
8 project, including the resolution of the protests.

9 (7) An assessment of the prequalification process and criteria.

10 (8) An assessment of the effect of retaining 5-percent retention
11 on the project.

12 (9) A description of the labor force compliance program and an
13 assessment of the project impact, where required.

14 (10) A description of the method used to award the contract. If
15 best value was the method, the report shall describe the factors
16 used to evaluate the bid, including the weighting of each factor
17 and an assessment of the effectiveness of the methodology.

18 (11) An assessment of the project impact of skilled labor force
19 availability.

20 (12) An assessment of the design-build dollar limits on agency
21 projects. This assessment shall include projects where the agency
22 wanted to use design-build and was precluded by the dollar
23 limitation. This assessment shall also include projects where the
24 best value method was not used due to dollar limitations.

25 (13) An assessment of the most appropriate uses for the
26 design-build approach.

27 (m) (1) In order to comply with paragraph (2) of subdivision
28 (a), the State Public Works Board is required to maintain the list
29 of agencies that have applied and are eligible to be qualified for
30 this authority.

31 (2) Each agency that is interested in proceeding under the
32 authority in this section must apply to the State Public Works
33 Board. The application to proceed shall be in writing and contain
34 such information that the State Public Works Board may require.

35 (3) The State Public Works Board shall approve or deny an
36 application, in writing, within 90 days of the submission of a
37 complete application. The authority to deny an application shall
38 only be exercised if the condition set forth in paragraph (2) of
39 subdivision (a) has been satisfied.

(4) An agency that has applied for this authorization shall, after it determines it no longer is interested in using this authority, notify the State Public Works Board in writing within 30 days of its determination. Upon notification, the State Public Works Board may contact any previous applicants, denied pursuant to paragraph (2) of subdivision (a), to inform them of the availability to proceed under this section.

(5) The State Public Works Board may authorize no more than 10 projects. The board shall not authorize or approve more than two projects for any one eligible redevelopment agency that submits a completed application.

(6) The State Public Works Board shall notify the Legislative Analyst's Office when 10 projects have been approved.

(n) On or before January 1, 2015, the Legislative Analyst shall report to the Legislature on the use of the design-build method by agencies pursuant to this section, including the information listed in subdivision (l). The report may include recommendations for modifying or extending this section.

(o) Except as provided in this section, nothing in this act shall be construed to affect the application of any other law.

(p) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

~~SEC. 117.~~

SEC. 110. Section 20919.4 of the Public Contract Code is amended to read:

20919.4. Bidding for job order contracts shall progress as follows:

(a) (1) The unified school district shall prepare a set of documents for each job order contract. The documents shall include a catalog of construction tasks and preestablished unit prices, job order contract technical specifications, and any other information deemed necessary to describe adequately the unified school district's needs.

(2) Any architect, engineer, or consultant retained by the unified school district to assist in the development of the job order contract documents shall not be eligible to participate in the preparation of a bid with any job order contractor.

(b) Based on the documents prepared under subdivision (a), the unified school district shall prepare a request for bid that invites

1 prequalified job order contractors to submit competitive sealed
2 bids in the manner prescribed by the unified school district.

3 (1) The prequalified job order contractors shall, as determined
4 by the unified school district, bid one or more adjustment factors
5 to the unit prices listed in the catalog of construction tasks based
6 on the job order contract technical specifications. Awards shall be
7 made to the lowest responsible prequalified bidder.

8 (2) The unified school district may award multiple job order
9 contracts. Each job order contract shall be awarded to the lowest
10 responsive and responsible prequalified bidder.

11 (3) The request for bids may encourage the participation of local
12 construction firms and the use of local subcontractors.

13 (c) (1) The unified school district shall establish a procedure
14 to prequalify job order contractors using a standard questionnaire
15 prepared by the Department of Industrial Relations under Section
16 20101. This questionnaire shall require information including, but
17 not limited to, all of the following:

18 (A) If the job order contractor is a partnership, limited
19 partnership, or other association, a listing of all of the partners or
20 association members known at the time of bid submission who
21 will participate in the job order contract.

22 (B) Evidence that the members of the job order contractor have
23 the capacity to complete projects of similar size, scope, or
24 complexity, and that proposed key personnel have sufficient
25 experience and training to competently manage the construction
26 of the project, as well as a financial statement that assures the
27 unified school district that the job order contractor has the capacity
28 to complete the project.

29 (C) The licenses, registration, and credentials required to
30 perform construction, including, but not limited to, information
31 on the revocation or suspension of any license, credential, or
32 registration.

33 (D) Evidence that establishes that the job order contractor has
34 the capacity to obtain all required payment and performance
35 bonding and liability insurance.

36 (E) Information concerning workers' compensation experience
37 history, worker safety programs, and apprenticeship programs.

38 (i) An acceptable safety record. A contractor's safety record
39 shall be deemed acceptable if its experience modification rate for
40 the most recent three-year period is an average of 1.00 or less, and

1 its average total recordable injury/illness rate and average lost
2 work rate for the most recent three-year period do not exceed the
3 applicable statistical standards for its business category or if the
4 contractor is a party to an alternative dispute resolution system as
5 provided for in Section 3201.5 of the Labor Code.

6 (ii) Skilled labor force availability as determined by the
7 existence of an agreement with a registered apprenticeship program,
8 approved by the California Apprenticeship Council, that has
9 graduated apprentices in each of the preceding five years. This
10 graduation training for any craft that was first deemed by the
11 Department of Labor and the Department of Industrial Relations
12 to be an apprenticeship craft within the five years prior to the
13 effective date of this article.

14 (F) A full disclosure regarding all of the following that are
15 applicable:

16 (i) Any serious or willful violation of Part 1 (commencing with
17 Section 6300) of Division 5 of the Labor Code or the federal
18 Occupational Safety and Health Act of 1970 (Public Law 91-596),
19 settled against any member of the job order contractor.

20 (ii) Any debarment, disqualification, or removal from a federal,
21 state, or local government public works project.

22 (iii) Any instance where the job order contractor, or its owners,
23 officers, or managing employees submitted a bid on a public works
24 project and were found to be nonresponsive, or were found by an
25 awarding body not to be a responsible bidder.

26 (iv) Any instance where the job order contractor, or its owners,
27 officers, or managing employees defaulted on a construction
28 contract.

29 (v) Any violations of the Contractors State License Law
30 (Chapter 9 (commencing with Section 7000) of Division 3 of the
31 Business and Professions Code), excluding alleged violations of
32 federal or state law regarding the payment of wages, benefits,
33 apprenticeship requirements, or personal income tax withholding,
34 or of Federal Insurance Contribution Act (FICA) withholding
35 requirements settled against any member of the job order
36 contractor.

37 (vi) Any bankruptcy or receivership of any member of the job
38 order contractor, including, but not limited to, information
39 concerning any work completed by a surety.

1 (vii) Any settled adverse claims, disputes, or lawsuits between
2 the owner of a public works project and any member of the job
3 order contractor during the five years preceding submission of a
4 bid under this article, in which the claim, settlement, or judgment
5 exceeds fifty thousand dollars (\$50,000). Information shall also
6 be provided concerning any work completed by a surety during
7 this period.

8 (G) In the case of a partnership or any association that is not a
9 legal entity, a copy of the agreement creating the partnership or
10 association and specifying that all partners or association members
11 agree to be fully liable for the performance under the job order
12 contract.

13 (2) The information required under this subdivision shall be
14 verified under oath by the entity and its members in the manner
15 in which civil pleadings in civil actions are verified. Information
16 that is not a public record under the California Public Records Act
17 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
18 Title 1 of the Government Code) shall not be open to public
19 inspection.

20 ~~SEC. 118:~~

21 *SEC. 111.* Section 22010 of the Public Contract Code is
22 amended to read:

23 22010. There is hereby created the California Uniform
24 Construction Cost Accounting Commission. The commission is
25 comprised of 14 members.

26 (a) Thirteen of the members shall be appointed by the Controller
27 as follows:

28 (1) Two members who shall each have at least 10 years of
29 experience with, or providing professional services to, a general
30 contracting firm engaged, during that period, in public works
31 construction in California.

32 (2) Two members who shall each have at least 10 years of
33 experience with, or providing professional services to, a firm or
34 firms engaged, during that period, in subcontracting for public
35 works construction in California.

36 (3) Two members who shall each be a member in good standing
37 of, or have provided professional services to, an organized labor
38 union with at least 10 years of experience in public works
39 construction in California.

(4) Seven members who shall each be experienced in, and knowledgeable of, public works construction under contracts let by public agencies; two each representing cities, counties, respectively, and two representing school districts (one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000), and one member representing a special district. At least one of the two county representatives shall be a county auditor or his or her designee.

(b) The member of the Contractors State License Board who is a General Engineering contractor as that term is defined in Section 7056 of the Business and Professions Code shall serve as an ex officio voting member.

~~SEC. 119.~~

SEC. 112. Section 327 of the Public Utilities Code is amended to read:

327. (a) The electrical corporations and gas corporations that participate in the California Alternate Rates for Energy (CARE) program, as established pursuant to Section 739.1, shall administer low-income energy efficiency and rate assistance programs described in Sections 382, 739.1, 739.2, and 2790, subject to commission oversight. In administering the programs described in Section 2790, the electrical corporations and gas corporations, to the extent practicable, shall do all of the following:

(1) Continue to leverage funds collected to fund the program described in subdivision (a) with funds available from state and federal sources.

(2) Work with state and local agencies, community-based organizations, and other entities to ensure efficient and effective delivery of programs.

(3) Encourage local employment and job skill development.

(4) Maximize the participation of eligible participants.

(5) Work to reduce consumers electric and gas consumption, and bills.

(6) For electrical corporations, target energy efficiency and solar programs to upper-tier and multifamily customers in a manner that will result in long-term permanent reductions in electricity usage at the dwelling units, and develop programs that specifically target nonprofit affordable housing providers, including programs that promote weatherization of existing dwelling units and replacement of inefficient appliances.

1 (7) For electrical corporations and for public utilities that are
2 both electrical corporations and gas corporations, allocate the costs
3 of the CARE program on an equal cents per kilowatthour or equal
4 cents per therm basis to all classes of customers that were subject
5 to the surcharge that funded the program on January 1, 2008.

6 (b) If the commission requires low-income energy efficiency
7 programs to be subject to competitive bidding, the electrical and
8 gas corporations described in subdivision (a), as part of their bid
9 evaluation criteria, shall consider both cost-of-service criteria and
10 quality-of-service criteria. The bidding criteria, at a minimum,
11 shall recognize all of the following factors:

12 (1) The bidder's experience in delivering programs and services,
13 including, but not limited to, weatherization, appliance repair and
14 maintenance, energy education, outreach and enrollment services,
15 and bill payment assistance programs to targeted communities.

16 (2) The bidder's knowledge of the targeted communities.

17 (3) The bidder's ability to reach targeted communities.

18 (4) The bidder's ability to utilize and employ people from the
19 local area.

20 (5) The bidder's general contractor's license and evidence of
21 good standing with the Contractors State License Board.

22 (6) The bidder's performance quality as verified by the funding
23 source.

24 (7) The bidder's financial stability.

25 (8) The bidder's ability to provide local job training.

26 (9) Other attributes that benefit local communities.

27 (c) Notwithstanding subdivision (b), the commission may
28 modify the bid criteria based upon public input from a variety of
29 sources, including representatives from low-income communities
30 and the program administrators identified in subdivision (b), in
31 order to ensure the effective and efficient delivery of high quality
32 low-income energy efficiency programs.

33 ~~SEC. 120.~~

34 *SEC. 113.* Section 143 of the Streets and Highways Code is
35 amended to read:

36 143. (a) (1) "Best value" means a value determined by
37 objective criteria, including, but not limited to, price, features,
38 functions, life-cycle costs, and other criteria deemed appropriate
39 by the department or the regional transportation agency.

(2) “Contracting entity or lessee” means a public or private entity, or consortia thereof, that has entered into a comprehensive development lease agreement with the department or a regional transportation agency for a transportation project pursuant to this section.

(3) “Design-build” means a procurement process in which both the design and construction of a project are procured from a single entity.

(4) “Regional transportation agency” means any of the following:

(A) A transportation planning agency as defined in Section 29532 or 29532.1 of the Government Code.

(B) A county transportation commission as defined in Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.

(C) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.

(D) A joint exercise of powers authority as defined in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(5) “Public Infrastructure Advisory Commission” means a unit or auxiliary organization established by the Business, Transportation and Housing Agency that advises the department and regional transportation agencies in developing transportation projects through performance-based infrastructure partnerships.

(6) “Transportation project” means one or more of the following: planning, design, development, finance, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of highway, public street, rail, or related facilities supplemental to existing facilities currently owned and operated by the department or regional transportation agencies that is consistent with the requirements of subdivision (c).

(b) (1) The Public Infrastructure Advisory Commission shall do all of the following:

(A) Identify transportation project opportunities throughout the state.

(B) Research and document similar transportation projects throughout the state, nationally, and internationally, and further identify and evaluate lessons learned from these projects.

1 (C) Assemble and make available to the department or regional
2 transportation agencies a library of information, precedent,
3 research, and analysis concerning infrastructure partnerships and
4 related types of public-private transactions for public infrastructure.

5 (D) Advise the department and regional transportation agencies,
6 upon request, regarding infrastructure partnership suitability and
7 best practices.

8 (E) Provide, upon request, procurement-related services to the
9 department and regional transportation agencies for infrastructure
10 partnership.

11 (2) The Public Infrastructure Advisory Commission may charge
12 a fee to the department and regional transportation agencies for
13 the services described in subparagraphs (D) and (E) of paragraph
14 (1), the details of which shall be articulated in an agreement entered
15 into between the Public Infrastructure Advisory Commission and
16 the department or the regional transportation agency.

17 (c) (1) Notwithstanding any other provision of law, only the
18 department, in cooperation with regional transportation agencies,
19 and regional transportation agencies, may solicit proposals, accept
20 unsolicited proposals, negotiate, and enter into comprehensive
21 development lease agreements with public or private entities, or
22 consortia thereof, for transportation projects.

23 (2) Projects proposed pursuant to this section and associated
24 lease agreements shall be submitted to the California Transportation
25 Commission. The commission, at a regularly scheduled public
26 hearing, shall select the candidate projects from projects nominated
27 by the department or a regional transportation agency after
28 reviewing the nominations for consistency with paragraphs (3)
29 and (4). Approved projects may proceed with the process described
30 in paragraph (5).

31 (3) The projects authorized pursuant to this section shall be
32 primarily designed to achieve the following performance
33 objectives:

34 (A) Improve mobility by improving travel times or reducing
35 the number of vehicle hours of delay in the affected corridor.

36 (B) Improve the operation or safety of the affected corridor.

37 (C) Provide quantifiable air quality benefits for the region in
38 which the project is located.

39 (4) In addition to meeting the requirements of paragraph (3),
40 the projects authorized pursuant to this section shall address a

1 known forecast demand, as determined by the department or
2 regional transportation agency.

3 (5) At least 60 days prior to executing a final lease agreement
4 authorized pursuant to this section, the department or regional
5 transportation agency shall submit the agreement to the Legislature
6 and the Public Infrastructure Advisory Commission for review.
7 Prior to submitting a lease agreement to the Legislature and the
8 Public Infrastructure Advisory Commission, the department or
9 regional transportation agency shall conduct at least one public
10 hearing at a location at or near the proposed facility for purposes
11 of receiving public comment on the lease agreement. Public
12 comments made during this hearing shall be submitted to the
13 Legislature and the Public Infrastructure Advisory Commission
14 with the lease agreement. The Secretary of Business, Transportation
15 and Housing or the Chairperson of the Senate or Assembly fiscal
16 committees or policy committees with jurisdiction over
17 transportation matters may, by written notification to the
18 department or regional transportation agency, provide any
19 comments about the proposed agreement within the 60-day period
20 prior to the execution of the final agreement. The department or
21 regional transportation agency shall consider those comments prior
22 to executing a final agreement and shall retain the discretion for
23 executing the final lease agreement.

24 (d) For the purpose of facilitating those projects, the agreements
25 between the parties may include provisions for the lease of
26 rights-of-way in, and airspace over or under, highways, public
27 streets, rail, or related facilities for the granting of necessary
28 easements, and for the issuance of permits or other authorizations
29 to enable the construction of transportation projects. Facilities
30 subject to an agreement under this section shall, at all times, be
31 owned by the department or the regional transportation agency,
32 as appropriate. For department projects, the commission shall
33 certify the department's determination of the useful life of the
34 project in establishing the lease agreement terms. In consideration
35 therefor, the agreement shall provide for complete reversion of the
36 leased facility, together with the right to collect tolls and user fees,
37 to the department or regional transportation agency, at the
38 expiration of the lease at no charge to the department or regional
39 transportation agency. At time of the reversion, the facility shall
40 be delivered to the department or regional transportation agency,

1 as applicable, in a condition that meets the performance and
2 maintenance standards established by the department or regional
3 transportation agency and that is free of any encumbrance, lien,
4 or other claims.

5 (e) Agreements between the department or regional
6 transportation agency and the contracting entity or lessee shall
7 authorize the contracting entity or lessee to use a design-build
8 method of procurement for transportation projects, subject to the
9 requirements for utilizing such a method contained in Chapter 6.5
10 (commencing with Section 6800) of Part 1 of Division 2 of the
11 Public Contract Code, other than Sections 6802, 6803, and 6813
12 of that code, if those provisions are enacted by the Legislature
13 during the 2009–10 Regular Session, or a 2009–10 extraordinary
14 session.

15 (f) (1) (A) Notwithstanding any other provision of this chapter,
16 for projects on the state highway system, the department is the
17 responsible agency for the performance of project development
18 services, including performance specifications, preliminary
19 engineering, prebid services, the preparation of project reports and
20 environmental documents, and construction inspection services.
21 The department is also the responsible agency for the preparation
22 of documents that may include, but need not be limited to, the size,
23 type, and desired design character of the project, performance
24 specifications covering the quality of materials, equipment, and
25 workmanship, preliminary plans, and any other information deemed
26 necessary to describe adequately the needs of the department or
27 regional transportation agency.

28 (B) The department may use department employees or
29 consultants to perform the services described in subparagraph (A),
30 consistent with Article XXII of the California Constitution.
31 Department resources, including personnel requirements, necessary
32 for the performance of those services shall be included in the
33 department's capital outlay support program for workload purposes
34 in the annual Budget Act.

35 (2) The department or a regional transportation agency may
36 exercise any power possessed by it with respect to transportation
37 projects to facilitate the transportation projects pursuant to this
38 section. The department, regional transportation agency, and other
39 state or local agencies may provide services to the contracting
40 entity or lessee for which the public entity is reimbursed, including,

1 but not limited to, planning, environmental planning, environmental
2 certification, environmental review, preliminary design, design,
3 right-of-way acquisition, construction, maintenance, and policing
4 of these transportation projects. The department or regional
5 transportation agency, as applicable, shall regularly inspect the
6 facility and require the contracting entity or lessee to maintain and
7 operate the facility according to adopted standards. Except as may
8 otherwise be set forth in the lease agreement, the contracting entity
9 or lessee shall be responsible for all costs due to development,
10 maintenance, repair, rehabilitation, and reconstruction, and
11 operating costs.

12 (g) (1) In selecting private entities with which to enter into
13 these agreements, notwithstanding any other provision of law, the
14 department and regional transportation agencies may utilize, but
15 are not limited to utilizing, one or more of the following
16 procurement approaches:

17 (A) Solicitations of proposals for defined projects and calls for
18 project proposals within defined parameters.

19 (B) Prequalification and short-listing of proposers prior to final
20 evaluation of proposals.

21 (C) Final evaluation of proposals based on qualifications and
22 best value. The California Transportation Commission shall
23 develop and adopt criteria for making that evaluation prior to
24 evaluation of a proposal.

25 (D) Negotiations with proposers prior to award.

26 (E) Acceptance of unsolicited proposals, with issuance of
27 requests for competing proposals. Neither the department nor a
28 regional transportation agency may award a contract to an
29 unsolicited bidder without receiving at least one other responsible
30 bid.

31 (2) When evaluating a proposal submitted by the contracting
32 entity or lessee, the department or the regional transportation
33 agency may award a contract on the basis of the lowest bid or best
34 value.

35 (h) The contracting entity or lessee shall have the following
36 qualifications:

37 (1) Evidence that the members of the contracting entity or lessee
38 have completed, or have demonstrated the experience, competency,
39 capability, and capacity to complete, a project of similar size,
40 scope, or complexity, and that proposed key personnel have

1 sufficient experience and training to competently manage and
2 complete the design and construction of the project, and a financial
3 statement that ensures that the contracting entity or lessee has the
4 capacity to complete the project.

5 (2) The licenses, registration, and credentials required to design
6 and construct the project, including, but not limited to, information
7 on the revocation or suspension of any license, credential, or
8 registration.

9 (3) Evidence that establishes that members of the contracting
10 entity or lessee have the capacity to obtain all required payment
11 and performance bonding, liability insurance, and errors and
12 omissions insurance.

13 (4) Evidence that the contracting entity or lessee has workers'
14 compensation experience, history, and a worker safety program
15 of members of the contracting entity or lessee that is acceptable
16 to the department or regional transportation agency.

17 (5) A full disclosure regarding all of the following with respect
18 to each member of the contracting entity or lessee during the past
19 five years:

20 (A) Any serious or willful violation of Part 1 (commencing with
21 Section 6300) of Division 5 of the Labor Code or the federal
22 Occupational Safety and Health Act of 1970 (Public Law 91-596).

23 (B) Any instance where members of the contracting entity or
24 lessee were debarred, disqualified, or removed from a federal,
25 state, or local government public works project.

26 (C) Any instance where members of the contracting entity or
27 lessee, or its owners, officers, or managing employees submitted
28 a bid on a public works project and were found to be nonresponsive
29 or were found by an awarding body not to be a responsible bidder.

30 (D) Any instance where members of the contracting entity or
31 lessee, or its owners, officers, or managing employees defaulted
32 on a construction contract.

33 (E) Any violations of the Contractors State License Law
34 (Chapter 9 (commencing with Section 7000) of Division 3 of the
35 Business and Professions Code), including, but not limited to,
36 alleged violations of federal or state law regarding the payment of
37 wages, benefits, apprenticeship requirements, or personal income
38 tax withholding, or Federal Insurance Contribution Act (FICA)
39 withholding requirements.

1 (F) Any bankruptcy or receivership of any member of the
2 contracting entity or lessee, including, but not limited to,
3 information concerning any work completed by a surety.

4 (G) Any settled adverse claims, disputes, or lawsuits between
5 the owner of a public works project and any member of the
6 contracting entity or lessee during the five years preceding
7 submission of a bid under this article, in which the claim,
8 settlement, or judgment exceeds fifty thousand dollars (\$50,000).
9 Information shall also be provided concerning any work completed
10 by a surety during this five-year period.

11 (H) If the contracting entity or lessee is a partnership, joint
12 venture, or an association that is not a legal entity, a copy of the
13 agreement creating the partnership or association that specifies
14 that all general partners, joint venturers, or association members
15 agree to be fully liable for the performance under the agreement.

16 (i) No agreement entered into pursuant to this section shall
17 infringe on the authority of the department or a regional
18 transportation agency to develop, maintain, repair, rehabilitate,
19 operate, or lease any transportation project. Lease agreements may
20 provide for reasonable compensation to the contracting entity or
21 lessee for the adverse effects on toll revenue or user fee revenue
22 due to the development, operation, or lease of supplemental
23 transportation projects with the exception of any of the following:

24 (1) Projects identified in regional transportation plans prepared
25 pursuant to Section 65080 of the Government Code.

26 (2) Safety projects.

27 (3) Improvement projects that will result in incidental capacity
28 increases.

29 (4) Additional high-occupancy vehicle lanes or the conversion
30 of existing lanes to high-occupancy vehicle lanes.

31 (5) Projects located outside the boundaries of a public-private
32 partnership project, to be defined by the lease agreement.

33 However, compensation to a contracting entity or lessee shall
34 only be made after a demonstrable reduction in use of the facility
35 resulting in reduced toll or user fee revenues, and may not exceed
36 the difference between the reduction in those revenues and the
37 amount necessary to cover the costs of debt service, including
38 principal and interest on any debt incurred for the development,
39 operation, maintenance, or rehabilitation of the facility.

1 (j) (1) Agreements entered into pursuant to this section shall
2 authorize the contracting entity or lessee to impose tolls and user
3 fees for use of a facility constructed by it, and shall require that
4 over the term of the lease the toll revenues and user fees be applied
5 to payment of the capital outlay costs for the project, the costs
6 associated with operations, toll and user fee collection,
7 administration of the facility, reimbursement to the department or
8 other governmental entity for the costs of services to develop and
9 maintain the project, police services, and a reasonable return on
10 investment. The agreement shall require that, notwithstanding
11 Sections 164, 188, and 188.1, any excess toll or user fee revenue
12 either be applied to any indebtedness incurred by the contracting
13 entity or lessee with respect to the project, improvements to the
14 project, or be paid into the State Highway Account, or for all three
15 purposes, except that any excess toll revenue under a lease
16 agreement with a regional transportation agency may be paid to
17 the regional transportation agency for use in improving public
18 transportation in and near the project boundaries.

19 (2) Lease agreements shall establish specific toll or user fee
20 rates. Any proposed increase in those rates not otherwise
21 established or identified in the lease agreement during the term of
22 the agreement shall first be approved by the department or regional
23 transportation agency, as appropriate, after at least one public
24 hearing conducted at a location near the proposed or existing
25 facility.

26 (3) The collection of tolls and user fees for the use of these
27 facilities may be extended by the commission or regional
28 transportation agency at the expiration of the lease agreement.
29 However, those tolls or user fees shall not be used for any purpose
30 other than for the improvement, continued operation, or
31 maintenance of the facility.

32 (k) Agreements entered into pursuant to this section shall include
33 indemnity, defense, and hold harmless provisions agreed to by the
34 department or regional transportation agency and the contracting
35 entity or lessee, including provisions for indemnifying the State
36 of California or the regional transportation agency against any
37 claims or losses resulting or accruing from the performance of the
38 contracting entity or lessee.

39 (l) The plans and specifications for each transportation project
40 on the state highway system developed, maintained, repaired,

1 rehabilitated, reconstructed, or operated pursuant to this section
2 shall comply with the department's standards for state
3 transportation projects. The lease agreement shall include
4 performance standards, including, but not limited to, levels of
5 service. The agreement shall require facilities on the state highway
6 system to meet all requirements for noise mitigation, landscaping,
7 pollution control, and safety that otherwise would apply if the
8 department were designing, building, and operating the facility.
9 If a facility is on the state highway system, the facility leased
10 pursuant to this section shall, during the term of the lease, be
11 deemed to be a part of the state highway system for purposes of
12 identification, maintenance, enforcement of traffic laws, and for
13 the purposes of Division 3.6 (commencing with Section 810) of
14 Title 1 of the Government Code.

15 (m) Failure to comply with the lease agreement in any significant
16 manner shall constitute a default under the agreement and the
17 department or the regional transportation agency, as appropriate,
18 shall have the option to initiate processes to revert the facility to
19 the public agency.

20 (n) The assignment authorized by subdivision (c) of Section
21 130240 of the Public Utilities Code is consistent with this section.

22 (o) A lease to a private entity pursuant to this section is deemed
23 to be public property for a public purpose and exempt from
24 leasehold, real property, and ad valorem taxation, except for the
25 use, if any, of that property for ancillary commercial purposes.

26 (p) Nothing in this section is intended to infringe on the authority
27 to develop high-occupancy toll lanes pursuant to Section 149.4,
28 149.5, or 149.6.

29 (q) Nothing in this section shall be construed to allow the
30 conversion of any existing nontoll or nonuser-fee lanes into tolled
31 or user fee lanes with the exception of a high-occupancy vehicle
32 lane that may be operated as a high-occupancy toll lane for vehicles
33 not otherwise meeting the requirements for use of that lane.

34 (r) The lease agreement shall require the contracting entity or
35 lessee to provide any information or data requested by the
36 California Transportation Commission or the Legislative Analyst.
37 The commission, in cooperation with the Legislative Analyst, shall
38 annually prepare a report on the progress of each project and
39 ultimately on the operation of the resulting facility. The report
40 shall include, but not be limited to, a review of the performance

standards, a financial analysis, and any concerns or recommendations for changes in the program authorized by this section.

(s) Notwithstanding any other provision of this section, no lease agreement may be entered into pursuant to the section that affects, alters, or supersedes the Memorandum of Understanding (MOU), dated November 26, 2008, entered into by the Golden Gate Bridge Highway and Transportation District, the Metropolitan Transportation Commission, and the San Francisco County Transportation Authority, relating to the financing of the U.S. Highway 101/Doyle Drive reconstruction project located in the City and County of San Francisco.

(t) No lease agreements may be entered into under this section on or after January 1, 2017.

~~SEC. 121. Section 1095 of the Unemployment Insurance Code is amended to read:~~

~~1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified in this section, except information specified in subdivisions (a) to (e), inclusive:~~

~~(a) To enable the director or his or her representative to carry out his or her responsibilities under this code.~~

~~(b) To properly present a claim for benefits.~~

~~(c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.~~

~~(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).~~

~~(e) To enable an employer to receive a reduction in contribution rate.~~

~~(f) To enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, where the verification or~~

1 ~~determination is directly connected with, and limited to, the~~
2 ~~administration of public social services.~~

3 ~~(g) To enable county administrators of general relief or~~
4 ~~assistance, or their representatives, to determine entitlement to~~
5 ~~locally provided general relief or assistance, where the~~
6 ~~determination is directly connected with, and limited to, the~~
7 ~~administration of general relief or assistance.~~

8 ~~(h) To enable state or local governmental departments or~~
9 ~~agencies to seek criminal, civil, or administrative remedies in~~
10 ~~connection with the unlawful application for, or receipt of, relief~~
11 ~~provided under Division 9 (commencing with Section 10000) of~~
12 ~~the Welfare and Institutions Code or to enable the collection of~~
13 ~~expenditures for medical assistance services pursuant to Part 5~~
14 ~~(commencing with Section 17000) of Division 9 of the Welfare~~
15 ~~and Institutions Code.~~

16 ~~(i) To provide any law enforcement agency with the name,~~
17 ~~address, telephone number, birth date, social security number,~~
18 ~~physical description, and names and addresses of present and past~~
19 ~~employers, of any victim, suspect, missing person, potential~~
20 ~~witness, or person for whom a felony arrest warrant has been~~
21 ~~issued, when a request for this information is made by any~~
22 ~~investigator or peace officer as defined by Sections 830.1 and~~
23 ~~830.2 of the Penal Code, or by any federal law enforcement officer~~
24 ~~to whom the Attorney General has delegated authority to enforce~~
25 ~~federal search warrants, as defined under Sections 60.2 and 60.3~~
26 ~~of Title 28 of the Code of Federal Regulations, as amended, and~~
27 ~~when the requesting officer has been designated by the head of~~
28 ~~the law enforcement agency and requests this information in the~~
29 ~~course of and as a part of an investigation into the commission of~~
30 ~~a crime when there is a reasonable suspicion that the crime is a~~
31 ~~felony and that the information would lead to relevant evidence.~~
32 ~~The information provided pursuant to this subdivision shall be~~
33 ~~provided to the extent permitted by federal law and regulations,~~
34 ~~and to the extent the information is available and accessible within~~
35 ~~the constraints and configurations of existing department records.~~
36 ~~Any person who receives any information under this subdivision~~
37 ~~shall make a written report of the information to the law~~
38 ~~enforcement agency that employs him or her, for filing under the~~
39 ~~normal procedures of that agency.~~

1 ~~(1) This subdivision shall not be construed to authorize the~~
2 ~~release to any law enforcement agency of a general list identifying~~
3 ~~individuals applying for or receiving benefits.~~

4 ~~(2) The department shall maintain records pursuant to this~~
5 ~~subdivision only for periods required under regulations or statutes~~
6 ~~enacted for the administration of its programs.~~

7 ~~(3) This subdivision shall not be construed as limiting the~~
8 ~~information provided to law enforcement agencies to that pertaining~~
9 ~~only to applicants for, or recipients of, benefits.~~

10 ~~(4) The department shall notify all applicants for benefits that~~
11 ~~release of confidential information from their records will not be~~
12 ~~protected should there be a felony arrest warrant issued against~~
13 ~~the applicant or in the event of an investigation by a law~~
14 ~~enforcement agency into the commission of a felony.~~

15 ~~(j) To provide public employee retirement systems in California~~
16 ~~with information relating to the earnings of any person who has~~
17 ~~applied for or is receiving a disability income, disability allowance,~~
18 ~~or disability retirement allowance, from a public employee~~
19 ~~retirement system. The earnings information shall be released only~~
20 ~~upon written request from the governing board specifying that the~~
21 ~~person has applied for or is receiving a disability allowance or~~
22 ~~disability retirement allowance from its retirement system. The~~
23 ~~request may be made by the chief executive officer of the system~~
24 ~~or by an employee of the system so authorized and identified by~~
25 ~~name and title by the chief executive officer in writing.~~

26 ~~(k) To enable the Division of Labor Standards Enforcement in~~
27 ~~the Department of Industrial Relations to seek criminal, civil, or~~
28 ~~administrative remedies in connection with the failure to pay, or~~
29 ~~the unlawful payment of, wages pursuant to Chapter 1~~
30 ~~(commencing with Section 200) of Part 1 of Division 2 of, and~~
31 ~~Chapter 1 (commencing with Section 1720) of Part 7 of Division~~
32 ~~2 of, the Labor Code.~~

33 ~~(l) To enable federal, state, or local governmental departments~~
34 ~~or agencies to administer child support enforcement programs~~
35 ~~under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et~~
36 ~~seq.).~~

37 ~~(m) To provide federal, state, or local governmental departments~~
38 ~~or agencies with wage and claim information in its possession that~~
39 ~~will assist those departments and agencies in the administration~~
40 ~~of the Victims of Crime Program or in the location of victims of~~

1 crime who, by state mandate or court order, are entitled to
2 restitution that has been or can be recovered.

3 (n) To provide federal, state, or local governmental departments
4 or agencies with information concerning any individuals who are
5 or have been:

6 (1) Directed by state mandate or court order to pay restitution,
7 fines, penalties, assessments, or fees as a result of a violation of
8 law.

9 (2) Delinquent or in default on guaranteed student loans or who
10 owe repayment of funds received through other financial assistance
11 programs administered by those agencies. The information released
12 by the director for the purposes of this paragraph shall not include
13 unemployment insurance benefit information.

14 (o) To provide an authorized governmental agency with any or
15 all relevant information that relates to any specific workers'
16 compensation insurance fraud investigation. The information shall
17 be provided to the extent permitted by federal law and regulations.
18 For the purposes of this subdivision, "authorized governmental
19 agency" means the district attorney of any county, the office of
20 the Attorney General, the Department of Industrial Relations, and
21 the Department of Insurance. An authorized governmental agency
22 may disclose this information to the State Bar, the Medical Board
23 of California, or any other licensing board or department whose
24 licensee is the subject of a workers' compensation insurance fraud
25 investigation. This subdivision shall not prevent any authorized
26 governmental agency from reporting to any board or department
27 the suspected misconduct of any licensee of that body.

28 (p) To enable the Director of the Bureau for Private
29 Postsecondary and Vocational Education, or his or her
30 representatives, to access unemployment insurance quarterly wage
31 data on a case-by-case basis to verify information on school
32 administrators, school staff, and students provided by those schools
33 who are being investigated for possible violations of Chapter 7
34 (commencing with Section 94700) of Part 59 of the Education
35 Code.

36 (q) To provide employment tax information to the tax officials
37 of Mexico, if a reciprocal agreement exists. For purposes of this
38 subdivision, "reciprocal agreement" means a formal agreement to
39 exchange information between national taxing officials of Mexico
40 and taxing authorities of the State Board of Equalization, the

1 ~~Franchise Tax Board, and the Employment Development~~
2 ~~Department. Furthermore, the reciprocal agreement shall be limited~~
3 ~~to the exchange of information that is essential for tax~~
4 ~~administration purposes only. Taxing authorities of the State of~~
5 ~~California shall be granted tax information only on California~~
6 ~~residents. Taxing authorities of Mexico shall be granted tax~~
7 ~~information only on Mexican nationals.~~

8 ~~(r) To enable city and county planning agencies to develop~~
9 ~~economic forecasts for planning purposes. The information shall~~
10 ~~be limited to businesses within the jurisdiction of the city or county~~
11 ~~whose planning agency is requesting the information, and shall~~
12 ~~not include information regarding individual employees.~~

13 ~~(s) To provide the State Department of Developmental Services~~
14 ~~with wage and employer information that will assist in the~~
15 ~~collection of moneys owed by the recipient, parent, or any other~~
16 ~~legally liable individual for services and supports provided pursuant~~
17 ~~to Chapter 9 (commencing with Section 4775) of Division 4.5 of,~~
18 ~~and Chapter 2 (commencing with Section 7200) and Chapter 3~~
19 ~~(commencing with Section 7500) of Division 7 of, the Welfare~~
20 ~~and Institutions Code.~~

21 ~~(t) Nothing in this section shall be construed to authorize or~~
22 ~~permit the use of information obtained in the administration of this~~
23 ~~code by any private collection agency.~~

24 ~~(u) The disclosure of the name and address of an individual or~~
25 ~~business entity that was issued an assessment that included~~
26 ~~penalties under Section 1128 or 1128.1 shall not be in violation~~
27 ~~of Section 1094 if the assessment is final. The disclosure may also~~
28 ~~include any of the following:~~

29 ~~(1) The total amount of the assessment.~~

30 ~~(2) The amount of the penalty imposed under Section 1128 or~~
31 ~~1128.1 that is included in the assessment.~~

32 ~~(3) The facts that resulted in the charging of the penalty under~~
33 ~~Section 1128 or 1128.1.~~

34 ~~(v) To enable the Contractors State License Board to verify the~~
35 ~~employment history of an individual applying for licensure~~
36 ~~pursuant to Section 7068 of the Business and Professions Code.~~

37 ~~(w) To provide any peace officer with the Division of~~
38 ~~Investigation in the Department of Consumer Affairs information~~
39 ~~pursuant to subdivision (i) when the requesting peace officer has~~
40 ~~been designated by the Chief of the Division of Investigation and~~

1 requests this information in the course of and as part of an
2 investigation into the commission of a crime or other unlawful act
3 when there is reasonable suspicion to believe that the crime or act
4 may be connected to the information requested and would lead to
5 relevant information regarding the crime or unlawful act.

6 ~~(x) To enable the Labor Commissioner of the Division of Labor~~
7 ~~Standards Enforcement in the Department of Industrial Relations~~
8 ~~to identify, pursuant to Section 90.3 of the Labor Code, unlawfully~~
9 ~~uninsured employers. The information shall be provided to the~~
10 ~~extent permitted by federal law and regulations.~~

11 ~~(y) To enable the Chancellor of the California Community~~
12 ~~Colleges, in accordance with the requirements of Section 84754.5~~
13 ~~of the Education Code, to obtain quarterly wage data, commencing~~
14 ~~January 1, 1993, on students who have attended one or more~~
15 ~~community colleges, to assess the impact of education on the~~
16 ~~employment and earnings of students, to conduct the annual~~
17 ~~evaluation of district-level and individual college performance in~~
18 ~~achieving priority educational outcomes, and to submit the required~~
19 ~~reports to the Legislature and the Governor. The information shall~~
20 ~~be provided to the extent permitted by federal statutes and~~
21 ~~regulations.~~

22 ~~(z) To enable the Public Employees' Retirement System to seek~~
23 ~~criminal, civil, or administrative remedies in connection with the~~
24 ~~unlawful application for, or receipt of, benefits provided under~~
25 ~~Part 3 (commencing with Section 20000) of Division 5 of Title 2~~
26 ~~of the Government Code.~~

27 *SEC. 114. Section 1095 of the Unemployment Insurance Code*
28 *is amended to read:*

29 1095. The director shall permit the use of any information in
30 his or her possession to the extent necessary for any of the
31 following purposes and may require reimbursement for all direct
32 costs incurred in providing any and all information specified in
33 this section, except information specified in subdivisions (a) to
34 (e), inclusive:

35 (a) To enable the director or his or her representative to carry
36 out his or her responsibilities under this code.

37 (b) To properly present a claim for benefits.

38 (c) To acquaint a worker or his or her authorized agent with his
39 or her existing or prospective right to benefits.

1 (d) To furnish an employer or his or her authorized agent with
2 information to enable him or her to fully discharge his or her
3 obligations or safeguard his or her rights under this division or
4 Division 3 (commencing with Section 9000).

5 (e) To enable an employer to receive a reduction in contribution
6 rate.

7 (f) To enable federal, state, or local government departments
8 or agencies, subject to federal law, to verify or determine the
9 eligibility or entitlement of an applicant for, or a recipient of, public
10 social services provided pursuant to Division 9 (commencing with
11 Section 10000) of the Welfare and Institutions Code, or Part A of
12 Title IV of the Social Security Act, where the verification or
13 determination is directly connected with, and limited to, the
14 administration of public social services.

15 (g) To enable county administrators of general relief or
16 assistance, or their representatives, to determine entitlement to
17 locally provided general relief or assistance, where the
18 determination is directly connected with, and limited to, the
19 administration of general relief or assistance.

20 (h) To enable state or local governmental departments or
21 agencies to seek criminal, civil, or administrative remedies in
22 connection with the unlawful application for, or receipt of, relief
23 provided under Division 9 (commencing with Section 10000) of
24 the Welfare and Institutions Code or to enable the collection of
25 expenditures for medical assistance services pursuant to Part 5
26 (commencing with Section 17000) of Division 9 of the Welfare
27 and Institutions Code.

28 (i) To provide any law enforcement agency with the name,
29 address, telephone number, birth date, social security number,
30 physical description, and names and addresses of present and past
31 employers, of any victim, suspect, missing person, potential
32 witness, or person for whom a felony arrest warrant has been
33 issued, when a request for this information is made by any
34 investigator or peace officer as defined by Sections 830.1 and
35 830.2 of the Penal Code, or by any federal law enforcement officer
36 to whom the Attorney General has delegated authority to enforce
37 federal search warrants, as defined under Sections 60.2 and 60.3
38 of Title 28 of the Code of Federal Regulations, as amended, and
39 when the requesting officer has been designated by the head of
40 the law enforcement agency and requests this information in the

1 course of and as a part of an investigation into the commission of
2 a crime when there is a reasonable suspicion that the crime is a
3 felony and that the information would lead to relevant evidence.
4 The information provided pursuant to this subdivision shall be
5 provided to the extent permitted by federal law and regulations,
6 and to the extent the information is available and accessible within
7 the constraints and configurations of existing department records.
8 Any person who receives any information under this subdivision
9 shall make a written report of the information to the law
10 enforcement agency that employs him or her, for filing under the
11 normal procedures of that agency.

12 (1) This subdivision shall not be construed to authorize the
13 release to any law enforcement agency of a general list identifying
14 individuals applying for or receiving benefits.

15 (2) The department shall maintain records pursuant to this
16 subdivision only for periods required under regulations or statutes
17 enacted for the administration of its programs.

18 (3) This subdivision shall not be construed as limiting the
19 information provided to law enforcement agencies to that pertaining
20 only to applicants for, or recipients of, benefits.

21 (4) The department shall notify all applicants for benefits that
22 release of confidential information from their records will not be
23 protected should there be a felony arrest warrant issued against
24 the applicant or in the event of an investigation by a law
25 enforcement agency into the commission of a felony.

26 (j) To provide public employee retirement systems in California
27 with information relating to the earnings of any person who has
28 applied for or is receiving a disability income, disability allowance,
29 or disability retirement allowance, from a public employee
30 retirement system. The earnings information shall be released only
31 upon written request from the governing board specifying that the
32 person has applied for or is receiving a disability allowance or
33 disability retirement allowance from its retirement system. The
34 request may be made by the chief executive officer of the system
35 or by an employee of the system so authorized and identified by
36 name and title by the chief executive officer in writing.

37 (k) To enable the Division of Labor Standards Enforcement in
38 the Department of Industrial Relations to seek criminal, civil, or
39 administrative remedies in connection with the failure to pay, or
40 the unlawful payment of, wages pursuant to Chapter 1

1 (commencing with Section 200) of Part 1 of Division 2 of, and
2 Chapter 1 (commencing with Section 1720) of Part 7 of Division
3 2 of, the Labor Code.

4 (l) To enable federal, state, or local governmental departments
5 or agencies to administer child support enforcement programs
6 under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et
7 seq.).

8 (m) To provide federal, state, or local governmental departments
9 or agencies with wage and claim information in its possession that
10 will assist those departments and agencies in the administration
11 of the Victims of Crime Program or in the location of victims of
12 crime who, by state mandate or court order, are entitled to
13 restitution that has been or can be recovered.

14 (n) To provide federal, state, or local governmental departments
15 or agencies with information concerning any individuals who are
16 or have been:

17 (1) Directed by state mandate or court order to pay restitution,
18 fines, penalties, assessments, or fees as a result of a violation of
19 law.

20 (2) Delinquent or in default on guaranteed student loans or who
21 owe repayment of funds received through other financial assistance
22 programs administered by those agencies. The information released
23 by the director for the purposes of this paragraph shall not include
24 unemployment insurance benefit information.

25 (o) To provide an authorized governmental agency with any or
26 all relevant information that relates to any specific workers'
27 compensation insurance fraud investigation. The information shall
28 be provided to the extent permitted by federal law and regulations.
29 For the purposes of this subdivision, "authorized governmental
30 agency" means the district attorney of any county, the office of
31 the Attorney General, the Department of Industrial Relations, and
32 the Department of Insurance. An authorized governmental agency
33 may disclose this information to the State Bar, the Medical Board
34 of California, or any other licensing board or department whose
35 licensee is the subject of a workers' compensation insurance fraud
36 investigation. This subdivision shall not prevent any authorized
37 governmental agency from reporting to any board or department
38 the suspected misconduct of any licensee of that body.

39 (p) To enable the Director of the Bureau for Private
40 Postsecondary and Vocational Education, or his or her

1 representatives, to access unemployment insurance quarterly wage
2 data on a case-by-case basis to verify information on school
3 administrators, school staff, and students provided by those schools
4 who are being investigated for possible violations of Chapter 7
5 (commencing with Section 94700) of Part 59 of the Education
6 Code.

7 (q) To provide employment tax information to the tax officials
8 of Mexico, if a reciprocal agreement exists. For purposes of this
9 subdivision, “reciprocal agreement” means a formal agreement to
10 exchange information between national taxing officials of Mexico
11 and taxing authorities of the State Board of Equalization, the
12 Franchise Tax Board, and the Employment Development
13 Department. Furthermore, the reciprocal agreement shall be limited
14 to the exchange of information that is essential for tax
15 administration purposes only. Taxing authorities of the State of
16 California shall be granted tax information only on California
17 residents. Taxing authorities of Mexico shall be granted tax
18 information only on Mexican nationals.

19 (r) To enable city and county planning agencies to develop
20 economic forecasts for planning purposes. The information shall
21 be limited to businesses within the jurisdiction of the city or county
22 whose planning agency is requesting the information, and shall
23 not include information regarding individual employees.

24 (s) To provide the State Department of Developmental Services
25 with wage and employer information that will assist in the
26 collection of moneys owed by the recipient, parent, or any other
27 legally liable individual for services and supports provided pursuant
28 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
29 and Chapter 2 (commencing with Section 7200) and Chapter 3
30 (commencing with Section 7500) of Division 7 of, the Welfare
31 and Institutions Code.

32 (t) Nothing in this section shall be construed to authorize or
33 permit the use of information obtained in the administration of this
34 code by any private collection agency.

35 (u) The disclosure of the name and address of an individual or
36 business entity that was issued an assessment that included
37 penalties under Section 1128 or 1128.1 shall not be in violation
38 of Section 1094 if the assessment is final. The disclosure may also
39 include any of the following:

40 (1) The total amount of the assessment.

1 (2) The amount of the penalty imposed under Section 1128 or
2 1128.1 that is included in the assessment.

3 (3) The facts that resulted in the charging of the penalty under
4 Section 1128 or 1128.1.

5 (v) To enable the ~~Contractors~~² *Contractors* State License Board
6 to verify the employment history of an individual applying for
7 licensure pursuant to Section 7068 of the Business and Professions
8 Code.

9 (w) To provide any peace officer with the Division of
10 Investigation in the Department of Consumer Affairs information
11 pursuant to subdivision (i) when the requesting peace officer has
12 been designated by the Chief of the Division of Investigation and
13 requests this information in the course of and as part of an
14 investigation into the commission of a crime or other unlawful act
15 when there is reasonable suspicion to believe that the crime or act
16 may be connected to the information requested and would lead to
17 relevant information regarding the crime or unlawful act.

18 (x) To enable the Labor Commissioner of the Division of Labor
19 Standards Enforcement in the Department of Industrial Relations
20 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
21 uninsured employers. The information shall be provided to the
22 extent permitted by federal law and regulations.

23 (y) To enable the Chancellor of the California Community
24 Colleges, in accordance with the requirements of Section 84754.5
25 of the Education Code, to obtain quarterly wage data, commencing
26 January 1, 1993, on students who have attended one or more
27 community colleges, to assess the impact of education on the
28 employment and earnings of students, to conduct the annual
29 evaluation of district-level and individual college performance in
30 achieving priority educational outcomes, and to submit the required
31 reports to the Legislature and the Governor. The information shall
32 be provided to the extent permitted by federal statutes and
33 regulations.

34 (z) To enable the Public Employees' Retirement System to seek
35 criminal, civil, or administrative remedies in connection with the
36 unlawful application for, or receipt of, benefits provided under
37 Part 3 (commencing with Section 20000) of Division 5 of Title 2
38 of the Government Code.

39 (aa) To enable the State Department of Education, the University
40 of California, the California State University, and the Chancellor

1 of the California Community Colleges, pursuant to the
2 requirements prescribed by the federal American Recovery and
3 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly
4 wage data, commencing July 1, 2010, on students who have
5 attended their respective systems to assess the impact of education
6 on the employment and earnings of those students, to conduct the
7 annual analysis of district-level and individual district or
8 postsecondary education system performance in achieving priority
9 educational outcomes, and to submit the required reports to the
10 Legislature and the Governor. The information shall be provided
11 to the extent permitted by federal statutes and regulations.

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